

THE
Fifty-ninth
TEXAS LEGISLATURE

A Review of Its Work



LL
AUSTIN, TEXAS

INSTITUTE OF PUBLIC AFFAIRS
THE UNIVERSITY OF TEXAS

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*The Fifty-ninth
Texas Legislature*

A REVIEW OF ITS WORK



AUSTIN, - TEXAS

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Foreword

Students of state and local government and citizens generally have a continuing need for pertinent information on significant legislation which is periodically enacted by their state legislature. To meet this need, the Institute of Public Affairs for a number of years has published such a summary for all of the general sessions and most of the special sessions of the Texas Legislature. This volume continues this series and covers the output of the Fifty-ninth Legislature's regular session in 1965 and its first called session in February of 1966.

In line with earlier summaries, this monograph is devoted primarily to a brief, factual description of the major House and Senate bills which became law. Also included are sections on legislation which was vetoed by the Governor, constitutional amendments proposed for ratification by the electorate, interim studies authorized and requested by the Legislature, and major pieces of legislation which failed to pass. In all of these sections, the legislation is analyzed from an objective point of view, and neither the authors, this Institute, nor the University take any position on the legislative proposals and enactments which are discussed in this volume.

This study was prepared by Messrs. Lynn F. Anderson, James K. Howard, N. David Spurgin, and James F. Ray of the Institute staff. The authors were assisted by several persons associated in some way with the legislative process. Governor John Connally's staff supplied complete information on gubernatorial vetoes; Mr. James R. Sanders, Director of Legislative Reference, Texas State Library, provided pertinent data on a number of legislative items; and Mr. Walter E. Long of the Texas Legislative Service, Austin, supplied copies of bills and other information useful in completing this study. To all of these individuals we express our thanks and appreciation for their contributions to this effort.

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Director

Austin, Texas
May, 1966

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THE FIFTY-NINTH TEXAS LEGISLATURE:

A REVIEW OF ITS WORK

Introduction

WHEN THE FIFTY-NINTH TEXAS LEGISLATURE convened for its regular session in January, 1965, it was clear from the time of the opening gavel that several vital issues would occupy the legislators' attention. Three overriding public questions confronted the Legislature: redistricting, education, and water conservation.

The matter of redistricting the state was high on the list of these pressing political questions. The task here was one of redividing the state into new or revised districts so as to achieve a more nearly equitable distribution of representation. It was legislative redistricting that offered the greatest difficulty. Yet Congressional redistricting was also pending business for the legislators, since the two preceding sessions of the Texas Legislature had passed on the burden of working out a new pattern of Congressional districts. More specifically, the Legislatures of 1961 and 1963 had been unable to agree on a plan of Congressional districts which would provide equitable representation based on the 1960 federal census of population.

Another item of unfinished business that occupied the attention of the Governor and the Legislature had to do with public higher education in the state. Governor John Connally had shown that he assigned a high ranking to this subject during his first term in office, and in his second term he still gave top priority to raising the quality of public higher education in the state. His abiding interest in higher education had taken the concrete form of obtaining from the previous Legislature authority to appoint a state-wide Committee on Education Beyond the High School. This group was charged with drawing up a plan, and making recommendations for carrying out the plan, for the state's institutions of higher education. This group came to be called "the Governor's Committee of 25," and its final report was issued in August, 1964.

A third question that the Fifty-ninth Legislature could hardly pass over was that of adjusting the salary schedule for public school teachers. The Texas State Teachers Association had adopted the slogan of "\$45 in '65" to describe its goal of an across-the-board salary increase for teachers of \$45 a month over current prevailing salaries.

As with previous legislatures, the subject of intelligent water resource management presented itself for consideration by the Fifty-ninth Legislature. The Texas Research League, a private, non-profit organization engaged in governmental research, had been asked to make a thoroughgoing survey of the management of the state's water resources. Results of the study were published immediately before the legislative session began and called for a rather sweeping reorganization of the state's water agencies. Just as important, the Research League strongly recommended that the state itself embark on an ambitious, state-wide, long-range plan for conserving and making the best use of its water resources.

The regular session of the Fifty-ninth Legislature, meeting from January 12 to May 31, 1965, was a busy one. This legislative session saw the introduction of 1,771 bills, over one thousand of them in the House alone. Resolutions introduced that embodied proposed amendments to the constitution numbered 132. Another measure of the high volume of legislative activity is found in the passage through the

TABLE I
NUMBER OF BILLS AND RESOLUTIONS INTRODUCED AND
ENACTED, FIFTY-NINTH TEXAS LEGISLATURE,
REGULAR SESSION
1965

	Introduced	Enacted*
House Bills (H.B.)	1,184	491
Senate Bills (S.B.)	587	271
House Concurrent Resolutions (H.C.R.)	195	141
House Joint Resolutions (H.J.R.)	84	15
House Simple Resolutions (H.S.R.)	613	593
Senate Concurrent Resolutions (S.C.R.)	136	113
Senate Joint Resolutions (S.J.R.)	48	12
Senate Simple Resolutions (S.R.)	845	841

* Includes those vetoed by the Governor.

Legislature of 27 proposed constitutional amendments—an unheard-of number for the Texas Legislature to submit to voters in any biennium; the next largest number of amendments to have been submitted by any earlier legislature during recent years was 14. The upper and lower houses of the Legislature adopted a total of 331 concurrent resolutions, formed 70 new special districts, and asked for 42 interim studies.

Perhaps the most important quantitative indicator of legislative activity is the figure showing how many bills, from the hundreds that were introduced, actually became law. Of the 1,184 House bills introduced, 491 were enacted into law; of the 587 Senate bills, 271 found their way into the statute books. In total, about 43 per cent of the bills introduced during the session succeeded in gaining the Legislature's approval. For a presentation in tabular form of these and other statistics regarding the record of the Fifty-ninth Legislature's regular session, consult Table I.

THE FIRST CALLED SESSION

It sometimes happens that urgent events subsequent to the adjournment of the regular session of a legislature require one or more special sessions for the enactment of timely legislation. Such an event was the historic decision of a three-judge federal court on February 9, 1966, that the use of the Texas poll tax as a prerequisite to voting was unconstitutional. Immediately after this decision was rendered, the Governor called a special session for the single purpose of enacting a new system of voter registration to replace the outlawed poll tax. The first called session met from February 14 to February 23 and enacted a plan of annual voter registration, the details of which are described subsequently in the section on *Elections*.

Bills and Resolutions Enacted

REAPPORTIONMENT

Congressional and legislative reapportionment was a major and urgent task for the Fifty-ninth Texas Legislature. The U.S. Supreme Court's evolving interpretation of constitutional law with respect to representation in Congress and in state legislatures came to fruition in

decisions handed down in 1964. With these decisions written into law, many state legislatures, including that of Texas, were faced with the need to re-examine their scheme of representation and to find ways to comply with the new Supreme Court doctrines.

Until the 1960's, the interpretation of the United States Supreme Court, as set forth in *Colegrove v. Green* (328 U.S. 549) in 1946, was that legislative reapportionment was a matter for legislative bodies to settle, and not the courts. In 1962, however, the Court ruled that the Constitution required judicial intervention in the face of what it considered a quagmire of politics in which legislators could not reach agreement on local districts that met constitutional requirements. This Court decision came in *Baker v. Carr* (369 U.S. 186).

By 1964, the Supreme Court had come all the way around from the *Colegrove v. Green* case and had gone beyond it. The Court was now ready not only to involve itself in reapportionment, and in doing so to involve the lower courts, but also to prescribe the constitutional standards for reapportioning. In *Wesberry v. Sanders* (376 U.S. 1) the Court held that Congressional districts within each state had to be drawn to include equal numbers of people. This was the famous "one man, one vote" decision.

Again in 1964, in the case of *Reynolds v. Sims* (84 S. Ct. 1362), the Court went on to apply the "one man, one vote" standard to both houses of state legislatures. The Court ruled that representation in either house of a state legislature could no longer be based on any criterion other than population and that the districts drawn for each house had to contain equal numbers of people.

At about the time the Supreme Court was considering the *Wesberry v. Sanders* case, a suit was brought in the Federal District Court in Houston challenging the validity of the Texas Congressional districting. The Houston court held in this case of *Bush v. Martin* (224 F. Supp. 499) that the Texas Congressional districts as drawn were unconstitutional. This decision came up for hearing on appeal to the Supreme Court after that Court had decided the *Wesberry v. Sanders* case. The Court upheld the Houston court's ruling, and the Houston court gave the Texas Legislature until August 1, 1965, to revise or reconstitute the districts. The Houston court retained jurisdiction in the case in order to hear any complaints of inequality in the drawing of the new Congressional districts.

After the Supreme Court's 1964 decision in *Reynolds v. Sims*, another case was brought in the Houston court, this time to test the legality of Texas House and Senate districts. The decision in this case of *Kilgarlin v. Martin* (summary judgment not reported) held these Texas districts to be unconstitutional and allowed the Legislature until August, 1965, to redraw them. The alternative to redistricting was for all members of the Legislature to run state-wide, instead of in defined districts.

The new districts that were drawn by the Fifty-ninth Legislature do not contain precisely equal numbers of people. But districts containing perfectly equal numbers are impossible to achieve. Political scientists have suggested that a 15 per cent deviation, either above or below the exactly equal figure, should be acceptable.

The reapportionment of Texas Congressional districts that was accomplished by the Fifty-ninth Legislature in H.B. 67 is shown on the first map in Appendix A. Dallas and Harris Counties, the two most populous counties in the state, gained one Congressman each in the reapportionment of the state's Congressional districts. A quick comparison of former and new districts reveals that the two Congressional seats awarded Dallas and Harris Counties came from East Texas. The "at-large" district was eliminated, making every Congressional district somewhat smaller.

On January 5, 1966, the three-judge federal court in Houston sustained this Congressional redistricting act against constitutional attack. The 1966 primary elections for Congress were thus held under the new law, but the court retained jurisdiction of the case "to enable the Texas Legislature, during its 60th regular session convening in January, 1967, and any special sessions through July, 1967, to reconsider and revise as necessary said H. B. 67."

Thus the next Legislature has a mandate to correct the more pronounced population disparities in the plan so as to hew closer to the fundamental standard of numerical equality among districts.

The reapportionment of Texas House districts as provided in H.B. 195 is shown on the second map in Appendix A. Four urban counties gained additional Representatives in the reapportionment of the Texas House. Harris County (Houston) gained seven new places, to add to the 12 it already has. Harris County also became the first county in Texas ever to be divided into more than one Representative district.

Dallas County gained five more places, Bexar County three more, and Tarrant one more. McLennan, Travis, Nueces, and Lubbock Counties each lost one place. Bell and Taylor Counties each lost two places, but continue to elect one Representative each and to share in the election of another through the flotorial district device.¹ Six additional flotorial districts were created under the 1965 reapportionment plan. The composition of the existing five flotorial districts was changed.

In an opinion in *Kilgarlin v. Martin*, handed down on February 2, 1966, the three-judge federal court sustained against constitutional attack all but the eleven flotorial districts created in reapportioning the House of Representatives. The court, finding that a flotorial district resident's vote is unconstitutionally diluted when compared with the vote of a non-flotorial district resident, directed that the Legislature revise the flotorial districts to meet the federal constitutional standard of "one man, one vote." If this is not done by August 1, 1967, the court's decree restructuring them into multi-county, multi-member districts will take effect.

The reapportionment of Texas Senate districts accomplished by S.B. 547 is indicated on the third map in Appendix A. Bexar County gained one Senatorial district; Dallas County gained two and Harris three.

A proposed amendment to the Texas Constitution enlarging the Senate to 39 members was submitted to a vote on September 7, 1965. The proposed amendment was disapproved, thereby eliminating the possibility of a special session to reapportion the Senate districts on the basis of 39 members. The Senate redistricting plan has not been challenged in the courts.

APPROPRIATIONS

Continuing the trend of recent years wherein the state government has faced growing program commitments and enlarged financial needs, the Fifty-ninth Legislature enacted record-size appropriations to complete the last biennium and to finance estimated requirements for the 1965-67 biennium. In total, the Legislature appropriated \$3,729,772,873. Of this amount, \$3,648,968,024 was appropriated in the

¹ A flotorial district is one which encompasses two or more counties at least one of which elects one or more Representatives of its own and shares with another county or counties in electing one or more additional Representatives.

general appropriation bill (H.B. 12) and \$80,804,849 was appropriated in a number of separate bills for special purposes. Subsequent to adjournment of the regular session, Governor Connally vetoed a number of items in the general appropriation bill which amounted to \$2,629,641 for the biennial period. The appropriations as made by the Legislature required the imposition of \$71 million in new tax revenue, but were also made possible by the existence of a surplus exceeding \$90 million in the General Revenue Fund at the end of the 1963-65 biennium. If revenue estimates hold and additional special sessions are not called to make further appropriations, it is the estimate of state officials that the state's financial operations will provide a small surplus at the end of the 1965-67 biennium.

After deduction of the \$2,629,641 in items vetoed by the Governor, appropriations for the 1965-67 biennium from all funds in the general appropriation bill amounted to \$3,646,338,383. Of this total, \$1,802,259,201 was appropriated for the 1965-66 fiscal year and \$1,844,079,182 was appropriated for the 1966-67 fiscal period. A breakdown of these projected outlays, on the basis of the five major divisions customarily used in the general appropriation bill, is given in Tables II and III.

TABLE II
SUMMARY OF APPROPRIATIONS AND ITEMS VETOED
GENERAL APPROPRIATION BILL
STATE OF TEXAS
1965-67 Biennium

Functions/Agencies	Original Appropriations	Amounts Vetoed	Final Appropriations
Judiciary	\$ 12,350,843	\$	\$ 12,350,843
Public Health, Hospitals, Special Schools, and Youth Institutions	165,866,243	287,500	165,578,743
Executive, Legislative, and Administrative Depart- ments and Agencies	1,754,309,412	1,004,000	1,753,305,412
Education	1,710,082,990	1,338,141	1,708,744,849
Legislature	6,358,536	6,358,536
TOTALS	<u>\$3,648,968,024</u>	<u>\$2,629,641</u>	<u>\$3,646,338,383</u>

TABLE III
ALL FUNDS APPROPRIATIONS*
GENERAL APPROPRIATION BILL
STATE OF TEXAS
Fiscal years 1965-66 and 1966-67

Functions/Agencies	1965-66	1966-67
Judiciary	\$ 6,175,549	\$ 6,175,294
Public Health, Hospitals, Special Schools, and Youth Institutions	81,603,539	83,975,204
Executive, Legislative, and Administra- tive Departments and Agencies	871,059,676	882,245,736
Education	841,054,286	867,690,563
Legislature	2,366,151	3,992,385
ANNUAL TOTALS	<u>\$1,802,259,201</u>	<u>\$1,844,079,182</u>
BIENNIAL TOTAL		<u>\$3,646,338,383</u>

* The amounts shown in this table are net after deduction of items vetoed by the Governor.

The item vetoes reflected a continued scrutiny of prospective state costs by Governor Connally and his budget staff. It will be recalled that, following the regular session of the Fifty-eighth Legislature in 1963, the Governor vetoed line items amounting to \$12.4 million. Although the 1965 item vetoes were much smaller in amount, the justifications for them in several instances were identical to those given two years earlier. These included the fact that some of the items had not been recommended in original budget submissions to the Legislature, absence of demonstrated need in some instances, duplications with other appropriations which were deemed adequate for their stated purposes, and, in one case, a change in local conditions subsequent to submission of the Governor's original budget request which altered the need for the capital outlay involved.

As is indicated in Table II, the appropriations vetoed were entirely within the executive branch of the state government. The largest single veto, \$1.1 million, applied to a proposed building at Angelo State College. Other items vetoed in the Education section of the act included smaller amounts for research, doctoral level instruction, and museums at three of the state colleges, respectively. The principal items

vetoed from the section for Executive, Legislative, and Administrative Departments and Agencies were: \$300,000 for a museum building in one of the state parks; \$200,000 for improvements at another state park; \$275,000 (for the 1966–67 fiscal year only) for control and eradication of cotton boll weevil; and \$200,000 in state aid for airport facilities. In the health and hospitals section of the appropriation act, the items vetoed were improvements to the water system at one of the state hospitals amounting to \$138,000 and \$149,500 for salaries of exempt positions in the new Department of Mental Health and Mental Retardation.²

The total general act appropriations, after vetoes, of \$3.65 billion represented a 16.5 per cent increase over the appropriations voted by the preceding Legislature for the 1963–65 biennium. As is customary in Texas, only two sections of the general appropriation act—the Judiciary and the Legislature—receive all of their appropriations from the General Revenue Fund. The remaining three sections receive part of their appropriations from the General Revenue Fund and part from a large number of special funds which are maintained by earmarked taxes and fees, federal grants, and priority allocations of certain state revenues by statutory direction. In the case of general act appropriations for health, hospitals, special schools, and youth institutions, 92.1 per cent of such appropriations for 1965–67 are from the general fund and 7.9 per cent are from other special funds. An opposite situation prevails for the Article III agencies—Executive, Legislative, and Administrative Departments and Agencies³—where only 6.1 per cent are

² In addition to these dollar items, the Governor vetoed four riders which were part of the general appropriation act. These would have (1) subjected Civil Judicial Council research projects to prior approval by the Texas Legislative Council; (2) reduced the Governor's power to exempt certain positions from the state's Position Classification Plan; (3) required the state comptroller to determine the accuracy of facts as a part of his pre-audit of state expenditures; and (4) prohibited the Department of Public Safety from being reimbursed by the Texas Turnpike Authority for services performed in policing the Texas Turnpike.

³ The term "Legislative" appears in this appropriation category because this section of the bill includes appropriations for one of the state's full-time legislative agencies—the State Auditor. Other legislative agencies, such as the Legislative Council and the Legislative Budget Board, are provided for in Article VI—"The Legislature of the State of Texas."

financed through the General Revenue Fund. Appropriations for the Education section of the appropriation act are financed in the ratio of 20.8 per cent from the General Revenue Fund and 79.2 per cent from other funds. The bulk of funds for state support of secondary and elementary education comes from the Available School Fund and the Minimum Foundation School Fund, while the general revenue appropriations for educational purposes are primarily for higher education. Considered in aggregate, General Revenue Fund appropriations for 1965-67 represent only 17.5 per cent of total general act appropriations, an increase of two percentage points from the ratio prevailing for the 1963-65 biennium. Dollar amounts of General Revenue Fund appropriations are given in Table IV.

TABLE IV
GENERAL REVENUE FUND APPROPRIATIONS*
GENERAL APPROPRIATION BILL
STATE OF TEXAS
Fiscal Years 1965-66 and 1966-67

Functions/Agencies	1965-66	1966-67
Judiciary	\$ 6,175,549	\$ 6,175,294
Public Health, Hospitals, Special Schools, and Youth Institutions	75,170,542	77,424,484
Executive, Legislative, and Administra- tive Departments and Agencies	55,529,942	52,083,686
Education	171,275,349	171,677,994
Legislature	2,366,151	3,992,385
ANNUAL TOTALS	<u>\$310,517,533</u>	<u>\$311,353,843</u>
BIENNIAL TOTAL		<u>\$621,871,376</u>

* The amounts shown in this table are net after deduction of items vetoed by the Governor.

As noted earlier, the Fifty-ninth Legislature passed a number of special appropriations in individual bills apart from the general appropriation act (See Table V). In fact, the number of such bills and the total amount of money involved were the largest passed by any single legislative session in recent years. The largest of these special appropriations was to finance the state's share of salary increases granted to teachers in elementary and secondary schools. Aside from its dollar

TABLE V
APPROPRIATIONS OTHER THAN GENERAL
APPROPRIATION BILL

Bill Number	Purpose	Amount
H. B. 271	Supplemental appropriations to various state agencies for the biennium ending August 31, 1965	\$ 702,785
S. B. 177	Building replacement at Lamar State College of Technology	828,580
H. B. 374	Additional operating expenses for Fifty-ninth Legislature	780,000
S. B. 4	Salary increase for public school teachers	70,697,352
S. B. 127	Salaries for judges of new district courts	160,000
S. B. 166	1968 HemisFair Building	4,500,000
S. B. 580	Salary increases for teachers in state schools for the blind and deaf	142,000
H. B. 944	Airplane for the Governor	425,000
H. B. 1167	State mental hospital and research institute at Dallas	250,000
S. B. 149	State matching funds for educational television used by local school districts	500,000
H. B. 37	Implementation of new State Building Construction Administration Act	472,000
S. B. 314	Miscellaneous claims and judgments	1,081,322
S. B. 141	Secretary of State for administration of Uniform Commercial Code	36,030
S. B. 306	Increase in classroom teacher units for pilot program of education for emotionally disturbed children	229,780
	TOTAL	\$80,804,849

cost, \$70.7 million for the biennium, the item is important because it will be a recurring expenditure and thereby is tantamount to an increase in future general appropriation acts after the 1965-67 biennium. A number of the remaining special appropriations, such as the building for the San Antonio HemisFair exposition in 1968 and the building replacement at Lamar State College of Technology, are one-time appropriations which are quite atypical of the normal special ap-

propriation pattern, and, of course, will have no predictable effect on future general appropriations.

Viewed in total perspective, it can be said that appropriations by the Fifty-ninth Legislature's regular session provided some increased financial support for all existing state programs and, in addition, provided funds for new programs and institutions of various kinds. Especially notable were the appropriations for higher education. In response to the Governor's unrelenting efforts to elevate the Texas system of higher education to a position of eminence in the United States, total appropriations for higher education⁴ were increased by more than \$123 million, or 36 per cent over those for the preceding biennium. This increase provided initial appropriations for two new state colleges (Angelo State College and Pan American College), funds required for enrollment increases, and substantial improvement in faculty salaries. In addition to the expanded appropriations for the state's 22 senior colleges and universities, the Legislature also took cognizance of the growing importance and needs of junior colleges by appropriating \$26.8 million in state aid to local junior colleges for the next two years, an increase of 62 per cent over 1963-65 outlays for these institutions.

Although the Legislature was most generous in its appropriations to higher education, its concern for improved financial resources to other areas of state and local government was also evident. The appropriation of \$70.7 million to meet the state share of higher salaries for public school teachers is one significant manifestation of this concern. In the Judiciary section of the general appropriation act, substantial salary increases were provided for district judges and judges in the state's appellate courts. Appropriations in the categories of "Public Health, Hospitals, Special Schools, and Youth Institutions" and "Executive, Legislative, and Administrative Departments and Agencies" were increased by \$235.8 million, or 14 per cent, to meet additional workloads and to provide funds for salary increases. The classification salary schedule under which most state administrative employees are compensated was revised upward, and covered employees were pro-

⁴ Exclusive of the higher education portion of the single item appropriation for teacher retirement.

vided with a pay raise for each year of the biennium. In some instances substantial salary increases were authorized for exempt positions of a professional nature, such as those in state hospitals and related institutions. Finally, appropriations were made for certain new programs which were deemed an essential part of the state's responsibility in meeting contemporary social and economic problems. Two prominent examples of the latter were grants-in-aid to community centers to provide mental health and mental retardation services and funds for two demonstration programs to provide community services for the mentally retarded.

TAXATION AND FINANCE

Because of the general fund surplus existing at the end of the 1963-65 biennium, the Fifty-ninth Legislature was able to vote its record high appropriations with only one tax bill of moderate proportions. This bill (H. B. 1181) increased the state tax on cigarettes from 8 to 11 cents per package and placed Texas in the position of having—along with the state of Washington—the highest state cigarette tax in the United States. The revenue from this rate increase, estimated at \$71.4 million for the 1965-67 biennium, goes entirely into the General Revenue Fund.

Although new taxation was limited to this single enactment, a number of other bills were passed which affected the administration of particular taxes already in existence or which otherwise had an impact on the state's finances. One of the most significant of these was H. B. 1182, which, pursuant to a recommendation of the Texas Commission on State and Local Tax Policy, modernized and improved the administration of the state inheritance tax. Under previous statutes the administration of the state inheritance tax was shared by the Comptroller of Public Accounts and the county judge, and the administrative procedures for assessing the tax were such that administrators of estates could delay payment of the tax for several years. Under H. B. 1182, the comptroller is given full administrative and enforcement authority over the tax, and tax returns and payments must be made 15 months after the date of a decedent's death. Amounts unpaid after 15 months will now incur an interest penalty of 6 per cent per annum instead of

the 2 per cent per month previously imposed. It was estimated that these changes will produce a one-time gain in revenue of approximately \$6 million during the 1965-67 biennium.

Aside from this one-time gain in inheritance tax revenue, the state's General Revenue Fund received an additional revenue boost for the 1965-67 biennium in the form of an interfund transfer of \$4.5 million from the Operators' and Chauffeurs' License Fund (H. B. 1144). Changes in various fund allocations for welfare purposes were also made under S. B. 319. This law changed the statutory allocations of revenues from the Omnibus Tax Clearance Fund to the Blind Assistance Fund, the Children's Assistance Fund, the Old Age Assistance Fund, and the Disabled Assistance Fund from specified dollar amounts to "funds in amounts equivalent to the funds appropriated by the Legislature for such purposes"⁵ The Omnibus Tax Clearance Fund is a fund which originally receives the revenues from a number of the state's major taxes, and transfers are made therefrom to specified operating funds before final expenditures for particular functions and programs are made. Under S. B. 319 it will no longer be necessary to amend the basic authorization statute so frequently as expenditure needs from the designated welfare funds change.

One minor change in the state-local structure for financing public schools was made by S. B. 575. This law provides a credit in the local fund assignment of school districts which have students from tax-exempt institutions for orphan, dependent, and/or neglected children. The effect of this bill is to make the state bear a larger portion of the total Minimum Foundation School Program cost in the districts having such tax-exempt institutions.

No less than eight bills affected the administration of specific taxes other than the inheritance tax noted above. H. B. 309 provides that 75 per cent of the unclaimed refunds of taxes paid on motor fuel used in motorboats is to be placed in a special fund (the Land and Water Recreation and Safety Fund) and used by the Parks and Wildlife Department to acquire land for recreational purposes and to enforce the Texas Water Safety Act. H. B. 120 amended certain administrative requirements, including penalties for late payment, of the state tax on

⁵ An identical provision, applicable only to the Disabled Assistance Fund, was also enacted in H.B. 519.

special fuels such as distillate and liquefied gas. Under S. B. 47 motor vehicles owned by a motor vehicle dealer and loaned free of charge to a public school for use in an approved driver training course are exempt from the state sales and use tax. H. B. 937 authorizes a securities dealer to pay the stock transfer tax by such methods, including the omission of tax stamps, as the state comptroller may prescribe. S. B. 75 adds "safflower, milo, and/or any other vegetable oil" to the list of ingredients which make certain oleomargarines exempt from the state tax on oleomargarine imported into Texas.

The state cigarette tax law was amended by H. B. 474. This statute enlarged and clarified the enforcement powers of the state comptroller in the issuance and suspension of cigarette tax permits. The act was also made to apply to distributing agents in addition to the distributors, wholesale dealers, and retail dealers previously covered.

The state's corporate franchise tax was affected by H. B. 1069 and H. B. 507. The first of these two bills exempts from the franchise tax those non-profit corporations which are organized for the sole purpose of providing a student loan fund and non-profit water supply and sewer service corporations. H. B. 507 provides a procedure whereby corporations whose charters have been forfeited because of failure to pay the corporate franchise tax may have their charters reinstated. The procedure requires a filing of all delinquent franchise tax returns; payment of all franchise taxes, penalties, and interest; and filing suit to set aside the charter forfeiture in the District Court of Travis County.

S. B. 406 amended the law which permits overpayments of state taxes other than the property tax to be credited against liability for the same tax which has been overpaid. Under former law, these credits were not assignable; under S. B. 406 they may be assigned under rules and regulations to be prescribed by the Comptroller of Public Accounts. Credits henceforth will expire after ten years instead of five.

A number of enactments by the Fifty-ninth Legislature affect both state and local taxation, principally the property tax. One of the more significant of these was H. B. 164 which changes the statute of limitations on suits by governmental units to recover delinquent taxes. This bill bars collection of property taxes which were delinquent on or before December 31, 1939. Prior to this amendment, the statute barred collection of property taxes which were delinquent prior to December 31, 1919. H. B. 418 changes the fees of office earned by county or dis-

strict attorneys in prosecuting suits against delinquent taxpayers from specific dollar amounts to "reasonable attorney's fees . . . not exceeding 10 per cent of the amount sued for." S. B. 549 requires governmental units which use the county tax assessor-collector to assess or collect their property taxes (cities, school districts, etc.) to notify the county tax assessor-collector of their intention to do so prior to July 20 of each year. If notification of a new tax rate is not received from such a governmental unit by July 20, the tax rate of the preceding year must be used by the county tax assessor-collector in preparing tax statements and making collections.

Where the county tax assessor and collector assesses and collects the property tax for independent and common school districts, the method of compensating him for this service was changed by H. B. 243. In the case of independent districts, the compensation was changed from the specified amounts of 1 per cent for assessing and 1 per cent for collecting to whatever amount may be agreed upon by the board of trustees of the school district and the county commissioners court. The amount agreed upon may not exceed the actual cost incurred by the county in assessing and collecting district taxes. For common school districts, the statutory charges for assessment and collection were each increased from one-half of 1 per cent to 1 per cent.

S. B. 209 permits a different ratio of assessed to market value in the valuation of property for hospital district tax purposes in counties having a population of 450,000 or more. An election is required if the assessment ratio for hospital district tax purposes is higher than that used for state and county tax purposes. Although the population requirements of this bill would cover the three largest hospital districts in the state, the bill was designed especially for Bexar County (San Antonio).

H. B. 346 amends Article 7152 of the Revised Civil Statutes by removing the requirement that a wife's separate property must be rendered by her husband. Henceforth, each spouse is to render his/her own separate property, but the husband or wife may act as the agent of the other in making a rendition. H.B. 470 removed the statutory rate limits on property taxes which counties and incorporated cities could levy to service park bonds and to operate and maintain parks. S.B. 414 clarifies the taxation of banks by specifying that state and pri-

vate banks are to be taxed only to the extent that they could be taxed if they were operating as national banks.

Several important enactments of the Fifty-ninth Legislature relate to state and local debt. Two of these authorize the issuance of additional general obligation bonds by the state. S.B. 310 contains the enabling legislation which authorizes the issuance of \$85 million in state bonds for a college student loan program and establishes procedures for administering the program. This bill was contingent upon voter approval of a proposed constitutional amendment (H.J.R. 11) at the November, 1965, general election. An additional \$100,000,000 of state water development bonds was authorized for sale by S.B. 144. This authorization supplemented an earlier one against which the Water Development Board has been issuing bonds in recent years, and it utilizes all of the \$200,000,000 of Water Development Bonds currently authorized by Article III, section 49c of the state constitution.

Under S.B. 492, the state and political subdivisions are authorized to issue replacement bonds for original bonds which have been damaged, mutilated, destroyed, lost, or stolen. Replacement bonds must be approved by the Attorney General and registered by the State Comptroller of Public Accounts. Before a replacement bond can be registered, the original bond must be cancelled by the comptroller and returned to the issuer.

Texas cities and towns were authorized to issue revenue bonds for the acquisition, construction, and improvement of swimming pools by H.B. 1079. Such bonds are made legal and authorized investments for various financial institutions, and they may also be used by banks to secure deposits of public funds belonging to the state and its political subdivisions.

Significant changes in state administration were provided for in legislation creating new agencies, boards, and commissions, and re-defining or adding to the duties of existing units of state government. The Texas Department of Mental Health and Mental Retardation was created by H.B. 3, along with a nine-member governing Board of Mental Health and Mental Retardation. The Board for Texas State Hospitals and Special Schools was abolished, and its functions were transferred to this new department. Also transferred to the new department were the mental health activities previously performed

by the State Department of Health. H.B. 1 in like manner authorizes the establishment of the Coordinating Board, Texas College and University System to provide leadership for the institutions of higher education in the state. A Texas Committee on Aging, given the title of the "Governor's Committee on Aging," was given permanency by S.B. 12, with the duty assigned it of encouraging efforts to meet more fully the needs of the state's aged.

Responding to a need for a unified plan to coordinate data-processing activities of the various state agencies, the Legislature in H.B. 926 established an Automatic Data Processing Systems Division in the office of the State Auditor and charged it with the responsibility of formulating orderly plans for the development and management of automatic data-processing systems in state agencies.

In the area of intergovernmental relations, the Division of State-Federal Relations was established in the Office of the Governor by H.B. 1004. This act provides for a director, appointed by the Governor with the advice and consent of the Senate, and authorizes him to maintain offices inside and outside the state. The law's purposes are the coordinating of all Texas and federal programs dealing with the same matter, informing the Governor and the Legislature of the existence of federal programs affecting the state, and providing the Legislature with information useful to it in measuring the effect of federal programs on state and local programs.

Other legislation creating new units of administration includes S.B. 236, creating the Commission on Law Enforcement Standards; H.B. 273, creating the Texas Fine Arts Commission to foster interest in, and development of, the fine arts in Texas; and H.B. 362, establishing the Texas Air Control Board to administer the anti-pollution provisions of that act.

S.B. 163 designates the State Department of Public Welfare as the primary state agency to cooperate with the federal government in the administration of its Economic Opportunity Act of 1964 in Texas. In like manner, S.B. 165 designates the Parks and Wildlife Department as the state agency to cooperate with federal authorities in the administration of the "Land and Water Conservation Fund Act of 1965," and authorizes that department to establish a comprehensive state-wide outdoor recreation plan.

The Texas Library and Historical Commission is authorized by S.B.

66 to adopt a state plan for improving public library services and for public library construction. The Texas State Library is directed to prepare the state plan for the Library and Historical Commission and to administer the plan as adopted by the commission. Included in S.B. 66 is a requirement that the plan include county and municipal libraries.

H.B. 37, known officially as the "State Building Construction Administration Act," names the State Building Commission as the agency to coordinate engineering and architectural services for state building projects other than those at state institutions of higher learning and at state hospitals and special schools. This action was taken in order to provide adequate and orderly planning for buildings to be constructed by the state and to insure adequate inspection in the state's building construction.

The Texas Historical Survey Committee is authorized by S.B. 64 to name natural geographic features in the state. Excluded from the committee's jurisdiction are those features located on private property when the owner of the property refuses to give his consent and those previously named under statutory authority or recognized by an agency of the federal government, the state, or a political subdivision of the state. The law further stipulates that the committee may name rivers, streams, creeks, and other waterways only in accordance with the practices of the United States Department of Interior and that no feature may be named for a living person.

S.B. 179 transfers all powers and duties of the Texas Council on Migrant Labor to the Good Neighbor Commission and abolishes the Texas Council on Migrant Labor by repealing the law under which it was established. The assumption in this legislation was that these two agencies were dealing with two aspects of the same problem and that their consolidation would produce improved administration at lower cost.

A similar transfer of administrative authority was effected by H.B. 1096 which transferred responsibility for the Alabama-Coushatta Indian Reservation from the Board for Texas State Hospitals and Special Schools to a newly-created Commission for Indian Affairs. The new commission is composed of three members from the eastern section of the state who are appointed by the Governor with the advice and consent of the Senate.

The name of the former "Colored Girls Training School" at Crock-

ett was changed to "Crockett State School" by S.B. 398. This institution is under the jurisdiction of the Texas Youth Council.

Three bills relating to records management in state agencies were passed by the Legislature. S. B. 244 requires the State Auditor to include, in his audit reports of each agency of the state, information concerning agency compliance with records-disposal instructions and transfer agreements in its records management program. S. B. 245 requires certain state agencies enumerated in the bill to examine, index, and request—where desirable—destruction of records dated prior to 1952 which are stored with the Records Management Division of the State Library. S. B. 246, the "Preservation of Essential Records Act," provides for the selection and safe storage in the Records Management Division of records (or duplicates) essential to the operation of state government and to the protection of the rights and interests of individuals. This storage is to be accomplished in order that essential records and/or duplicates thereof will be safe from all forms of disaster and available when needed.

S. B. 354 provides that adoption records filed with the State Department of Public Welfare and with licensed "child-placing" agencies shall be confidential and open to inspection only by parties to the adoption proceedings and their attorneys, or by court order. With certain exceptions, the law further provides that pleadings, records, and other documents held by any person or filed with a court in connection with a dependency hearing concerning a child born out of wedlock are confidential. Exceptions to this requirement are disclosures to a person performing a statutory function in connection with the dependency hearing, to a party to the hearing or his attorney, or to other persons by court order if the court is satisfied that disclosure would further the ends of justice.

Legislation providing salary increases for most state employees was passed in this 1965 session of the Legislature. As noted earlier, the general appropriation bill (H.B. 12) contained provisions granting two salary increases, effective September 1, 1965, and September 1, 1966, respectively, for employees whose positions are classified under the state Job Classification Plan. Also included in the general appropriation bill were provisions for salary increases for many other state employees whose positions are not under the Job Classification Plan.

Another supplementary piece of legislation affecting state em-

ployees was S. B. 563, in which the Legislature authorized state departments and agencies to grant merit salary increases for consistent performance by state employees above that normally expected or required. However, no provision was made for funds for this purpose other than those made available by employee turnover within each department.

State employees did receive some setbacks in their efforts to obtain legislation favorable to them. One goal of the Texas Public Employees Association was the adoption of legislation requiring the state to assume the cost of driver's responsibility insurance on state-owned vehicles. This proposal, contained in H. B. 223, was defeated and replaced by the provisions of H. B. 215, granting immunity or exemption to federal, state, and local government employees from the requirement that the driver-employee should himself carry insurance to protect him while driving state-owned vehicles. The effect will be to protect the employee's driver's license and registration on his personal automobile from suspension if he is involved in an accident in a state vehicle, but not to provide the driver-employee with insurance protection from personal judgments against him resulting from the accident, as the defeated H. B. 223 would have.

Two bills passed by the Legislature require that state agencies give special preference to the handicapped. H. B. 466 directs that preference be given in state purchasing to products manufactured by organizations that train and employ mentally retarded and physically handicapped persons, on condition that these products meet state specifications as to quantity, quality, and price. The other statute, H. B. 188, provides that no person may operate a vending facility, including any vending machine or coin-operated device, on state property without a license from the Commission for the Blind, and that first priority in issuing licenses will be given to the blind. Certain types of state property, such as that on which institutions of higher education are located, are exempted from the provisions of the act.

REGULATION OF BUSINESSES AND PROFESSIONS

The Fifty-ninth Texas Legislature passed a number of laws relating to the conduct of businesses and professions.

Business. If one single act relating to regulation of business were to be singled out as the most important, it would be the Uniform

Commercial Code (S.B. 141). This code is a comprehensive revision and codification of all state law concerning commercial transactions. The adoption of the code makes Texas law governing commercial transactions uniform with that under which a majority of the people, financial institutions, and businesses of the United States operate.

A significant enactment in the field of economic regulation was the Mineral Interest Pooling Act (S.B. 2). This law conferred authority on the Texas Railroad Commission to pool all of the oil and gas interests in an area having a common reservoir of oil and gas for which the commission has established the size and shape of proration units. The area embraced by such a pool may not be greater than 160 acres for oil and 640 acres for gas, plus a 10 per cent tolerance. The purpose of this law is to prevent the drilling of numerous unnecessary and uneconomic wells on small tracts of land within a common oil or gas reservoir.

Under the terms of S.B. 395, all persons, associations, or corporations operating any crude oil gathering system, whether by pipeline or truck, except those transporting only crude oil from properties in which they own an operating interest, are brought under the definition of common purchasers of crude oil subject to regulation by the Railroad Commission. This act also provides the Railroad Commission with authority to end any discrimination found in producer-purchaser relations.

S.B. 441 amends the statute concerning unlawfully produced oil to provide that any oil kept in storage for more than six years without being used, consumed, or moved into the regular channels of commerce is presumed to be unlawful oil. The act states what evidence shall serve as rebuttal to this presumption and further amends the statutes to provide that any person having incurred expense in the storage of oil found by the court to be illegal oil may be compensated for his expenses from the money obtained from the sale of the illegal oil under court order.

S.B. 442 makes it illegal to make any false or fraudulent or incorrect application, report, or other document required by the Railroad Commission, or to aid in the making of such document, or to advise such document be made, or to induce such document to be made knowingly and wittingly. Under the terms of H.B. 267, the Railroad Commission is given extensive authority to regulate the plugging of abandoned oil or gas wells. H.B. 518 grants to the City of Corpus

Christi and to other rightful owners all rights and privileges of the state of ingress and egress on and over the surface of certain submerged lands near Corpus Christi for the purpose of exploring, developing, and producing oil, gas, and other minerals.

H.B. 1011 grants authority for a court, under certain specified conditions, to appoint a receiver to execute and deliver to a lessee a mineral lease or an assignment of an outstanding undivided mineral leasehold interest when any suit is brought to claim an undivided mineral interest.

S.B. 182 confers on aliens the right to own real and personal property in Texas. Under the terms of H.B. 507, any corporation which has forfeited its charter as determined either by the Secretary of State or by a court may regain its right to do business in Texas and its charter by following the procedure set out in the act.

H.B. 508 amends the statutes governing non-profit corporations to outline a method of dissolution for such corporations by administrative action. The earlier statutes had required that dissolution be by judicial proceeding. Now the Secretary of State may dissolve such corporations if they have not filed with him the report required by law. A method of relieving the forfeiture is provided.

Under the terms of H.B. 592, executive officers of business corporations are brought under the coverage of the state workmen's compensation laws. The executives of other corporations, except of certain educational enterprises, may obtain like coverage by the terms of the insurance contract which such corporations may have.

S.B. 73 exempts specific classes of haulers from the definition of a motor and contract carrier who must obtain a certificate from the Texas Railroad Commission in order to operate on Texas highways. Those exempted from the general regulations are persons transporting fresh fruit and vegetables or flax straw from the place where they are produced to processing points no more than 75 miles away. Haulers claiming such exemptions are required, however, to submit to the Railroad Commission a certificate indicating that their vehicles are appropriately insured. S.B. 84 authorizes the Railroad Commission to license transportation brokers (which the act defines) and sets the amount of bond to be posted by each transportation broker and the annual license fee charged. Penalties for violation of the act are set forth.

S.B. 102 authorizes the Railroad Commission to establish rates for

the transportation of goods, wares, and merchandise upon which the value is declared in writing or where the value is agreed upon in writing by the shipper. The act further stipulates that railroads and other carriers of goods shall not be liable under common law for a value of the goods in excess of this declared value so recorded.

S.B. 465 amends a statute on navigation to provide that the consignee of any vessel includes the master, the owner, the agent, the sub-agent, or any person, firm, or corporation which enters or clears the vessel at the Collector of Customs. The act further provides that the pilot of a vessel or a pilot who offers to serve a vessel may recover the lawful pilot fees in any court of competent jurisdiction, jointly and severally from any one or more of the persons, firms, or corporations.

Under the terms of H.B. 361, motor carriers may deposit United States bonds or cash in lieu of bonds and/or insurance required to obtain a certificate to operate on Texas highways. The act further provides that a motor carrier may become self-insured under certain conditions. H.B. 604 repeals statutes which required a brakeman on the rear car of all trains transporting passengers and merchandise. It also repeals previous legislation which made it unlawful for railroads to place baggage, freight, merchandise, or lumber cars behind passenger cars in forming a passenger train.

Permission is given by S.B. 325 for the Laredo Trade Zone Corporation to apply for and accept a federal grant to establish and operate a foreign trade zone at the Laredo port of entry, subject to the requirements of federal law and regulations of the Foreign Trade Zones Board. S.B. 505 confers the same authorization on the McAllen Trade Zone, Inc., as does S.B. 585 on the Harlingen Trade Zone, Inc. A foreign trade zone is a facility designed to make easier the buying and selling of goods across an international border.

S.B.'s 80, 81, 82, and 83 all amend the trust law. S.B. 80 provides that a trustee's compensation or commissions and an attorney's fee may both be charged against the income or principal of the trust, or part against income and part against principal. S.B. 81 provides that whenever a trust agreement excludes a trustee or co-trustee from authority to direct the making or holding of investments or the performance of any act in the management and administration of the trust, the excluded trustee or co-trustee shall not be liable for any loss resulting from investment or retention of investments or the perform-

ance of any administrative act except where the terms of the trust agreement contain provisions making the trustee or co-trustee liable.

S.B. 82 provides that a corporate trustee or other trust officer when authorized by will, trust agreement, or court order to retain the trust's own capital stock, may, when the exercise of rights or the receipt of a stock dividend results in a fractional share holding, purchase the necessary additional fractional share(s) to round out the holding to a full share. S.B. 83 authorizes the Texas trustee to name an ancillary trustee for any assets of a trust which may lie outside the state.

Under the terms of S.B. 31, all fresh beef, pork, or mutton retailed in Texas must bear a label indicating the country of origin of the meat, if the meat is not domestic. This bill was an answer to cattlemen's complaints that the price levels of meat were being undermined by imports.

H.B. 60 enlarges the scope of the law which authorizes the Texas Animal Health Commission to cooperate with the federal government in controlling swine diseases in the state. Control of a number of additional diseases is brought within the authority of the commission, and the commission is authorized to regulate the use of biological preparations as a protection against the spread of contagious, infectious, or communicable swine diseases. Several additions are made to the previous law in order to clarify its meaning and intent, and S.B. 116, passed earlier by the Fifty-ninth Legislature, was repealed by H.B. 60 because of an erroneous citation.

H.B. 99 amends the provision prescribing the penalty for violation of the pink bollworm laws to provide that it shall be a complete defense to any alleged violation if the act or failure involved has been in accordance with the rules and regulations promulgated by the Commissioner of Agriculture.

H.B. 338 makes changes in the law relating to bonds required of commission merchants dealing in vegetables to provide that for a new business the bond is to be \$5,000. After six months' experience, the amount of the bond shall be redetermined, and, as in all other cases, the bond must be obtained before the new merchant may do business. H.B. 339 adds these same provisions to the law relating to the bond required of commission merchants and/or dealers and contract dealers in fresh fruits. H.B. 1170 exempts prepared flour and meal from the standard measure and labeling requirements of the law under certain specified conditions.

S.B. 77 amends the law relating to boiler inspection and safety to exempt certain types of boilers from that law. S.B. 280 amends the Probate Code to provide that the proceeds of life or accident insurance policies which are community property may be treated as other community property in cases in which both a husband and wife have died and there is no direct evidence that they did not die simultaneously.

S.B. 316 makes a number of changes in the Texas Unemployment Compensation Act. Penalties for certain violations of the act or rules of the Texas Employment Commission are changed. The act provides that collection remedies are cumulative. Authority is given to the commission to estimate wages and taxes due and proceed with their collection when an employer fails to report. If collections are in excess of actual amounts due, they may be corrected and refunds paid. The act brings the lien provisions of the law in line with the lien provisions of the general tax laws of the state. It authorizes the commission to bring suit to enforce judgments of employment security agencies located in other states on a reciprocal basis. The act gives authority for a district court to enjoin an employer from further employment when he has failed to pay a judgment, an execution is returned unsatisfied, required bond is not posted, and estimated contributions for the next succeeding calendar year are not paid to the commission.

H.B. 86 declares that whenever an owner of real property contracts with a corporation which he controls to construct or repair a building, or whenever a contract between an owner and a corporation is not made in good faith, any natural person or corporation contracting with the owner or his corporation to supply labor, materials, or fabrication of materials shall be deemed to be in a direct contractual relationship with the owner and may perfect his lien against the property in the same manner as an original contractor. The act makes it a misdemeanor for an owner of real property or his agent to make or cause to be made a false statement concerning payment for construction or improvement of real property and on the basis of such a statement to secure money or other thing of value in connection with the construction or improvement.

H.B. 117 amends the statutes on escheat to require the Secretary of State to have the notice of abandoned property published in an English language newspaper of general circulation in the county of the last known residence of the persons presumed to have abandoned such property. The Secretary of State is further required to notify

such persons by mail, if an address is known, within at least 120 days from the time of his receiving the notification of presumed abandonment. The act substantially alters the method of determining whether the property presumed abandoned and not claimed shall escheat to the state. An administrative process is substituted by this act for the previous requirement that such question be judicially determined. Also, the validity of claims is now to be administratively determined, rather than being subject to judicial determination.

Professions. The Texas Engineering Practice Act, S.B. 74, was designed to elevate the professional practice of engineering in the state. This legislation sets the terms and conditions under which a person must be licensed to practice engineering, and it confers on licensed engineers the status of being members of a learned profession. It closes the loopholes in the previous law relating to professional standards and practice and strengthens the rule-making and enforcement powers of the State Board of Registration for Professional Engineers. Telephone engineers employed by operating companies and their affiliates are exempt from registration as professional engineers by S.B. 512.

S.B. 97 creates the Polygraph Examiners Board of Texas to license and regulate public and private operators of polygraph (lie detector) machines. The act makes it illegal for an individual to operate any polygraph machine in the state without a license or to hold himself out to be an operator without a license. The qualifications for polygraph operators, license fees, and penalties for violation of the provisions of the act and regulations of the board are set forth.

S.B. 225 provides that any physician who examines or treats a child under the age of 18 years may report any injury he finds to the judge of the juvenile court, district attorney, the county attorney, local law enforcement agency, or the probation officer of the county, if he believes that the injury is other than accidental and is due to maltreatment or neglect. The report is voluntary, not mandatory. Any physician making such a report is immune, under the provisions of this act, from civil and criminal liability for so reporting. S.B. 161 increases the annual registration fee for licensed physicians in the state from \$5 to \$10.

H.B. 392 amends the Healing Art Identification Act to provide for the official identification which must be used by persons licensed by the State Board of Chiropractic Examiners. H.B. 423 clarifies the

statute authorizing the Attorney General or a district attorney to seek to enjoin the practice of veterinary medicine by any person who has not complied with the provisions of the Veterinary Licensing Act.

S.B. 221 amends the law governing notaries public. In part it provides that the Secretary of State may reject any application for appointment as notary public for good cause and may revoke the commission of any notary public for the same reason. Such action on the part of the secretary is subject to judicial review. The act further provides that the Secretary of State shall reappoint notaries on May 1 of each odd-numbered year and that notaries have 15 days from that date in which to qualify. New appointees also are given 15 days to qualify, a five-day increase over the time previously allowed. Any applicant for appointment must now show, in addition to previously required qualifications, that he has never been convicted of a crime involving moral turpitude. The act gives the Secretary of State the power to make regulations necessary for its administration. This act supersedes H.B. 437, which was also passed by the Fifty-ninth Legislature.

INSURANCE AND SECURITIES

Insurance. S.B. 69 makes changes in the law applicable to corporate insurance company stockholders and directors so that certain requirements applicable to them will more closely parallel those of the general corporation laws. This act removes the requirement that directors of life, health, or accident insurance companies be stockholders of such companies and permits directors to be elected for staggered terms of office if so desired. The date of the stockholders' annual meeting was changed from the second Tuesday of March to any date prior to April 30 of each year as may be prescribed in the corporate bylaws. Another act, S.B. 202, makes similar changes for mutual life insurance companies.

H.B. 483 authorizes domestic life insurance companies to establish, and allocate funds to, separate accounts in connection with pension, retirement, or profit-sharing plans. Allocation of funds to such accounts must be in accord with the terms of a written agreement and must be invested and managed in accord with certain restrictions set forth in the act.

Two bills dealt with fees charged by the State Board of Insurance.

H.B. 453 changed the sales charge made to the public for copying insurance department records from a flat rate of 20 cents for each 100 words to such an amount as the department deems sufficient to reimburse the state for the actual expense involved. H.B. 962 levied an annual fee of \$500 against credit life insurance and credit accident and health insurance companies for the privilege of doing business in the state. All proceeds from this fee are appropriated to the Board of Insurance to meet expenses in connection with the examination and licensing of insurance companies.

The form and organization of accident and sickness insurance policies are prescribed in S.B. 378. One protection that the bill writes into the Insurance Code is that the policyholder may keep a policy for up to ten days, during which time he can return the policy and have his premium refunded.

The frequency of examination of insurance companies by the state board is the subject of S.B. 175. The law had previously required examinations of insurance companies every two years after their sixth year of organization, whereas examinations of their financial condition and compliance with state laws are now to be made every three years, or oftener if necessary.

With the passage of S.B. 285, the maximum fee which a mortgage lender may charge for a borrower's substitution of an insurance policy for another policy still in effect is set at \$7.50.

In S.B. 301, the law regarding evidence of insurability is clarified. Any life insurance company qualifying to do business in the state can guarantee to issue life insurance policies on other than the term plan to participants in an approved pension or profit-sharing plan without evidence of insurability. S.B. 266 increased the number and types of eligible investments for life insurance companies, and H.B. 471 made numerous changes in the financial requirements and regulations governing state-wide mutual assessment corporations, local mutual aid associations, and local mutual burial associations organized under state law.

S.B. 344 declares it to be state policy to make sure that facilities should be available for handling any liquidation, reorganization, or conservation of insurance companies, and authorizes the appropriation of state funds other than assets of insurers to provide such facilities.

New kinds of property—electronic machines, office equipment, fur-

niture, and labor-saving devices—are to be counted in determining the assets of fire and marine and casualty insurance companies in the annual statements drawn up by these companies (H.B. 430).

H.B. 989 concerns the treatment of mutual assessment companies under state regulations. It directs that the conservator appointed to look after a mutual assessment company's affairs may, upon the Insurance Commissioner's approval, reinsure with a solvent firm that company's policies or certificates. A "stipulated premium" company is subject to similar rules and relationships.

An amendment to the Texas Uniform Gifts to Minors Act, H.B. 551, provides for the donation of life or endowment insurance policies and annuity contracts to a custodian for the benefit of a minor. The act also authorizes a custodian of property for a minor to invest in these types of insurance policies and contracts. The Fifty-ninth Legislature also amended the Texas Probate Code (S.B. 503) to authorize guardians to purchase or continue in effect insurance and annuity policies administered by the Veterans Administration.

Securities. S.B. 492 describes the procedure to be followed by the owner of a state or local government bond in obtaining duplicates where bonds are lost, stolen, destroyed, or mutilated. An amendment (S.B. 534) to a previous legislative act changes slightly the uniform stock transfer statutes by making it possible, when shares of stock are carried on the books of a corporation as being jointly owned by two or more persons with the right of survivorship, for the surviving joint owner to transfer title to these securities and to receive dividends thereon.

H.B. 937 grants to the state comptroller the privilege of administrative discretion in selecting the way in which licensed securities dealers may pay the stock transfer tax. Amendment of corporation law is accomplished by H.B. 938. The added section makes legal the transfer of title to certificates and shares of stock by means of a "clearing corporation," a term defined in the bill.

BANKING AND CREDIT

Only a few laws in the area of banking and credit were passed by the Fifty-ninth Texas Legislature, and one of these (S.B. 59) was vetoed by the Governor.

S.B. 19 amends certain statutes relating to credit unions. The act

provides that the funds of any credit union may be invested in shares of stock issued by building and loan associations and savings and loan associations located anywhere in the United States, rather than just those located in Texas. It permits credit unions to extend the terms of office of their boards of directors and supervisory boards to two or three years. Terms may be staggered, and supervisory boards may have more than three members. The act authorizes the Banking Commissioner to lengthen up to 60 days the time allowed for paying the annual supervisory fee when the delay is requested and good cause is shown. The maximum time allowable for the repayment of loans made by credit unions and secured by improved residential real estate is increased from 15 to 20 years. Further, the act provides that credit union dividends may be paid semiannually.

Under the provisions of the same act, credit unions are not required to recognize the claims of third parties to any deposit or to refuse payment of any deposit to any depositor, unless the credit union is served with a citation or otherwise served with a court-issued notification in connection with a suit instituted by third parties for the purpose of recovering or establishing an interest in such a deposit. Finally, a policy is established for dealing with joint accounts so as to protect state and federal credit unions located in Texas from suit for making payments to only one party having such an account.

S.B. 200 amends the previous law relating to savings and loan associations to allow them to make some real estate loans not permitted in the past. Further, the act clarifies the law relating to payments to be made from joint accounts. Under the terms of S.B. 285, no mortgage lender (as the term is defined by the act) may require a fee of over \$7.50 for the substitution by a borrower of one insurance policy for another policy still in effect. Nor may the lender require any fee for the substitution of an insurance policy for an existing policy upon termination of the existing policy. However, for this provision to apply, the insurance company providing the substituted policy must be licensed to do business in Texas. Civil damages not exceeding three times the annual premium on the insurance policy may be recovered by the borrower from a lender who violates this act.

S.B. 414 brings private and state banks under the same class as national banks so that all are treated alike and subject to the same taxation under Texas law.

Bonds issued by governing boards of institutions of higher education were made authorized investments for banks, savings banks, trust companies, building and loan associations, and insurance companies by S.B. 91.

Debt pooling is prohibited, according to the terms of H.B. 124. Debt pooling is defined as entering into a contract by any person, firm, corporation, or association with a debtor, who agrees in the contract to deposit with such a person, firm, corporation, or association a specified sum of money which the contracting person or association agrees to distribute among the creditors of the debtor. The debtor agrees to pay for this service. Exceptions are made to the prohibition of the practice: it does not apply to attorneys at law, state or national banks, judicial officers or others acting under court orders, retail merchants' trade associations, or non-profit associations formed to collect accounts and exchange credit information.

The so-called dual contracting law sets out the penalties to be assessed on anyone who fraudulently substitutes one written instrument for another, thereby causing the making of a loan or extension of credit, and on anyone who uses fraud in inducing a person to transfer title to real estate or to improvements to real estate (H.B. 33).

EDUCATION

Colleges and Universities. Early in the session the Legislature passed the Higher Education Coordinating Act (H.B. 1), which created the Coordinating Board, Texas College and University System to "provide leadership and coordination" for the state's higher education system, including the governing boards of the various institutions. The expressed goal of the legislation was to point the way toward excellence in the higher education offered the youth of the state. The new coordinating board absorbed the Texas Commission on Higher Education, as well as the Junior College Division in the Texas Education Agency.

The coordinating board is made up of 18 members appointed by the Governor and confirmed by the Senate. Members will serve for six-year terms; the Governor selects the board chairman. No member appointed can be employed professionally in the field of education. The board appoints a Commissioner of Higher Education, who in turn selects and supervises the board's staff.

Among other duties, the new board is given the power to eliminate or consolidate courses offered at any of the state colleges or universities. The board, by a two-thirds majority vote, may approve the introduction of a new program at any of the institutions. "Program" here embraces a new department, school, degree, or certificate. The board is to define the role and scope of each institution within the state system and to develop formulas for use in making budget requests to the Legislature. The setting up of the new coordinating board was mainly an outgrowth of recommendations of the "Governor's Committee of 25" which made its report in August, 1964.

A trend among Texas state-supported colleges has been toward dropping the word "teachers" from their titles, making them simply "state colleges" instead of "state teachers colleges." Another tendency that is readily discernible is for state-supported colleges to get their names changed from "colleges" to "universities." One of these changes was accomplished in S.B. 374, which altered the name of Sam Houston State Teachers College to make it Sam Houston State College. Another bill (H.B. 333) changed the name of East Texas State College to East Texas State University. A related matter was dealt with in H.B. 13, which changed the name of the Board of Regents of the State Teachers Colleges to the Board of Regents, State Senior Colleges.

One form of growth which tax-supported colleges in Texas have taken is for a junior college, a two-year institution, to expand into a state senior college—a four-year, degree-granting college. This minor tendency manifested itself in S.B. 544. But for the Governor's veto of this bill, Texarkana Junior College would have been transformed from a two-year junior college into a full four-year public senior college. Similarly, S.B. 385, if it had not been vetoed, would have brought into being Permian State College at Odessa, to absorb and supplant Odessa Junior College. Thus the Governor held to his conviction that what the state needs for the present is not more colleges but better ones.

Companion bills before the Legislature, S.B. 187 and H.B. 492, granted the Board of Regents of The University of Texas the power of eminent domain to add certain tracts of land to its Austin campus. The significance of this two-installment piece of legislation (signed into law by the Governor by the end of May) did not become a matter of public knowledge until the following August, when it was announced that President Johnson had accepted the offer extended by The Uni-

versity's Board of Regents to set aside as much as 14 acres of land in Austin to be used as the site for the Lyndon B. Johnson Library.

As noted in an earlier section, H.B. 1167 made an appropriation of \$250,000 toward the cost of planning, building, and initially equipping a state hospital and research institute in Dallas County to be used in conjunction with the program of Southwestern Medical School of The University of Texas. By a separate act, H.B. 348, the Legislature authorized the Department of Mental Health and Mental Retardation to establish and operate this Dallas Neuropsychiatric Institute, to be located on property adjacent to the Southwestern Medical School campus in Dallas. The new institute at Dallas is to have a teaching function, as well as treatment and research facilities. The Department of Mental Health and Mental Retardation is directed to work closely with Southwestern Medical School in this enterprise, especially in such matters as staffing and making rules and regulations for the new institute.

New laws affecting higher education include the granting of exemption from tuition and fees for several groups of young people. H.B. 48, for instance, allows exemption from tuition and other fees at state institutions of higher education for the children of certain firemen, peace officers, and game wardens. In similar fashion, H.B. 479 permits exemption from certain fees at state institutions of higher learning to orphans of members of the National Guard and the Texas Air National Guard who have been killed since January 1, 1946. A third exemption was extended (H.B. 853) to certain blind and deaf students, and the fourth act in this series (S.B. 203) exempts certain foreign students from payment of tuition at institutions of collegiate rank.

It has long been the policy of the state to provide one-year tuition scholarships at state colleges and universities for the highest ranking graduate of each accredited high school in Texas. S.B. 388 amended this policy by restricting, except in special cases, such scholarships to both semesters of the first regular session immediately following a student's graduation. In special circumstances, usually military service, educational institutions may grant the scholarships in any one of the first four regular sessions following graduation.

H.B. 675 provides that members of the armed forces or armed forces reserve and teachers, professors, and other employees of state-

supported institutions of higher education in Texas may register themselves, their husbands, wives, or children at public institutions of higher education by paying resident tuition fees.

Public Schools. The Texas State Teachers Association had made it quite clear, far ahead of the convening of the Legislature in 1965, that its first and central target was to be an across-the-board, uniform increase in salaries for teachers and other public school personnel. In line with this decision, "\$45 in '65" became the slogan and watchword of TSTA in preparing for the upcoming legislative session. The meaning of this slogan was, of course, that representatives of the state's public school teachers were going to press for, above all else, a blanket upward revision of school salaries by a flat \$45 a month during the 1965 session. As might be expected, the Legislature and its committees did not adopt the "\$45 in '65" TSTA package lock, stock, and barrel. Even so, however, the teachers' organization did help the Governor and the Legislature to get a ticket written.

S.B. 4, adopted late in the session, was the so-called "teachers' pay bill." The minimum base pay set by the Legislature for a classroom teacher in public schools who holds a bachelor's degree is \$456 a month, an increase of \$10 per month over the former minimum base salary. His annual experience increment is \$13 a month for each year of teaching experience the person has had up to a maximum of \$156 per month. The minimum base salary for a classroom teacher with a master's degree is \$490 a month (\$19 per month more than the previous minimum base pay), with annual increments again of \$13 a month. For the holder of a master's degree, the maximum increment for teaching experience may not exceed \$234 a month. All of these figures represent minimum salaries and minimum increments; a local board is at liberty to grant salary raises above the state minimums if it chooses. If past experience is any guide, some school districts have set their salaries above the minimum levels prescribed by the state.

In addition to increasing the minimum salary schedule for all public school teachers, S.B. 4 provides a new supplementary aid program to encourage payment of higher teacher salaries by local school districts. The state will provide a grant amounting to \$25 per teacher during the 1965-66 and 1966-67 school years to each school district for this purpose, and thereafter the amount will be \$50 per teacher. Each local dis-

trict must match these supplemental salary grants on the basis of its foundation program assignment which, for the state as a whole, averages 80 per cent state and 20 per cent local. The bill specifies that not less than 10 per cent of a district's teachers shall participate in the supplemental salary funds granted by the state and also sets minimum and maximum limits on the amount a teacher may receive. During the 1965-66 and 1966-67 school years, the minimum is \$50 and the maximum is \$500; thereafter, the minimum is \$100 and the maximum is \$1,000 per year.

S.B. 4 also established a Governor's Committee on Public School Education, to be composed of 15 members, all appointed by the Governor. The Governor also selects the chairman. The committee is instructed to study the present program of public school education in the state. It is charged with conducting a pervasive study of every aspect of Texas public elementary and secondary education and is authorized to select a director for the study, who in turn chooses a staff and engages consultants or specialists in the field of public education.

The Legislature appropriated for the committee's use \$100,000 for the first year of its life and \$150,000 for the second year—a rough measure of the importance attached to this comprehensive study. The committee resembles the "Governor's Committee of 25" of the past biennium, except that it is going to explore public elementary and secondary education, rather than higher education. It is directed to submit its report and make its recommendations no later than August 31, 1968. The Legislature tried by S.B. 580 to offer teachers in such state-operated schools as the State School for the Blind salary increases comparable to those given by S.B. 4 to public school teachers.

The office of county superintendent of schools has become obsolescent in many Texas counties. Efforts to abolish the office outright, nevertheless, have met with resistance in recent years. The Legislature has adopted a piecemeal approach to the matter, often transferring the county superintendent of schools' duties to the county judge in specific counties. H.B. 1162 illustrates this county-by-county approach to the problem: it abolishes the office of county superintendent in Montgomery County and transfers its duties to the county judge, making the judge an ex officio county school superintendent. Similarly, H.B. 1015 does away with the office of ex officio county superintendent in Bee County. Wharton County, under the terms of H.B. 1103, has

abolished its office of county superintendent of schools, and abolishment of the county superintendents' offices in Childress, Cottle, and Van Zandt Counties was accomplished by H.B. 412. The latter bill directs that the county judges of Childress and Cottle Counties serve as ex officio county superintendents in their respective counties.

The state makes "incentive aid payments" to independent school districts to assist them in discharging their educational obligations. S.B. 162 is directed at seeing that such public school districts which consolidate are not penalized by being given a smaller share of incentive aid payments from the state as a result of their having merged. An Attorney General's opinion concerning what districts would be eligible for these incentive payments lay back of this legislation.

S.B. 85 prescribes the procedure or method for an independent school district to follow in reorganizing a junior college district within the school district's bounds. H.B. 166 alters the law respecting school district consolidation elections. It requires that if a proposal to consolidate two or more districts into a single district fails in any one of the districts, another election resubmitting the same consolidation proposal may not be held until at least one year has passed. When school districts want to consolidate with one or more adjacent districts, as evidenced by a petition asking for the move, the county judge is obligated to call an election on the issue. Election returns are to be canvassed by the county's commissioners court. If a majority favor the change, the commissioners court declares the districts consolidated.

Instead of charging school boards with the duty of maintaining a complete school bus service of their own, H.B. 355 enables school trustees to arrange contracts with public transportation companies for bus service to pupils. School districts that conduct an exceptional-children's program are authorized an extra transportation allocation (S.B. 190), beginning with the 1967-68 school year. The amount of this form of state aid to the districts is \$150 per pupil annually.

As a safety measure, S.B. 121 requires public school teachers and students to wear certain protective eye devices in laboratory-type courses. The legislation is aimed to prevent damage to the eyes in vocational shop, chemistry, or physics classes.

School boards are now empowered to use educational television as a teaching instrument in public elementary and secondary schools. They may look to the Texas Education Agency for matching funds to con-

tract for the television instruction (S.B. 149). The Texas Education Agency's matching money comes from the Foundation School Fund, with the proviso that the state's share for television teaching shall not exceed \$500,000 for the current biennium.

The establishment of additional state schools for mentally retarded persons is allowed under the provisions of H.B. 41. The sites for the schools are to be selected by administrative determination.

An amendment to the public education statutes, S.B. 143, gives control to the State Board of Education over the Texas Blind and Deaf School at Austin. Previously, administrative control over the school had been vested in the Board for Texas State Hospitals and Special Schools.

COUNTIES

Parking Facilities. Two laws enacted by the Fifty-ninth Legislature dealt with parking facilities owned or operated by counties. H.B. 513, one of these, authorizes the commissioners court of any county having a population above 900,000 persons (Dallas and Harris) to construct, enlarge, equip, and operate a parking station in the vicinity of the county courthouse. Such a station may be leased by the commissioners court on terms approved by the court. Revenue bonds may be issued, by majority vote of the commissioners and without an election, for the construction, enlargement, furnishing, or equipping of the station. Refunding bonds may be issued, and bonds issued may be callable. Any bonds issued for these named purposes are to be payable from and secured by a pledge of the net revenues derived from operation of the parking station, plus any other revenues resulting from the ownership of the parking properties, including rentals from leasing all or part of the station.

H.B. 910 authorizes the commissioners court of any county having a population between 14,000 and 14,500 persons (Jackson) and any county having a population between 25,000 and 26,000 persons (Matagorda) to purchase necessary equipment and to make and enforce regulations for parking in county-owned parking lots in the vicinity of the county courthouse. The county court may, further, contract with the city for enforcement of its regulations.

Purchasing. H.B. 146 amends previous legislation governing competitive bidding for county purchases by changing the schedule for advertising. Advertisements for bids must be published at least once

a week for two consecutive weeks, and the first notice must appear at least 14 days preceding the last day for receiving bids. H.B. 311 makes the permissive county purchasing agent law applicable to all counties having a population of at least 74,000. It also raises the maximum permissible salary for such agents to \$15,000 annually and removes the limitations on the number and salaries of assistants.

Road Construction. The Fifty-ninth Legislature also passed three bills concerned with the power of counties in road construction. Under the terms of H.B. 1110, any county having a population in excess of 240,000 but less than 310,000 persons (Jefferson) is authorized to contract with the federal government for the joint construction or improvement of roads, bridges, or other county facilities and for their maintenance, and to pay the county's share of such expense out of available county funds.

H.B. 1132 renews the life of a statute permitting the commissioners court of any county with a population of less than 10,000 persons to authorize the construction of cattle-guards across any of the first-, second-, or third-class roads in the county. It also brings into the scope of such authority any county having a population of not less than 21,265 nor more than 21,785 persons (Walker).

H.B. 431 applies to counties—currently 14 in number—whose populations fall within one of the seven population brackets enumerated in the act. It grants power to any county commissioners court in these counties to authorize any commissioner to use county employees and county-owned equipment to construct and maintain any private road in his precinct, when requested in writing by a person owning an interest in the private road, or in the land on which the private road is to be constructed. Any county commissioner who uses county employees and equipment for this purpose is required to charge the persons requesting the service the prevailing rate for like work in the same area.

Other Laws. S.B. 404 requires that whenever the boundaries of commissioners precincts or justice of the peace precincts are changed by the commissioners court and an election for a precinct office is held before the effective date of the boundary change, the office shall be filled by the voters of the precinct as it will exist on the effective date of the change. The act also provides that changes in the boundaries of commissioners precincts shall not affect the term of office of an incumbent. Further, if justice precincts are changed and there reside

in any precinct one more justice of the peace than there are offices for such justices, the office or offices of the precinct shall become vacant and shall be filled as would any other vacancy. Under the terms of S.B. 549, any taxing authority using the services of the county tax assessor-collector either for assessing or collecting taxes must notify this officer of the tax rate of the authority by July 20 of each year or else automatically have the tax rate used by such officer remain the same as the rate of the previous year. H.B. 627 amends the statute specifying what shall be a quorum for a commissioners court. It provides that any four members of the court shall constitute a quorum for levying a county tax if one member of the court is incapacitated and such incapacity is certified in writing by a duly licensed physician and approved by the district court. The 300,000 minimum population "floor" in the statute providing authority for counties to acquire dumping grounds is removed by H.B. 847. This statute now applies to all counties of the state. H.B. 1057 amends the statute which permitted the commissioners court in a county having a population of at least 350,000 to contract for fire protection with an incorporated volunteer fire department located outside the corporate limits of any city or town within the county. All counties are now within the scope of this authority.

The Legislature granted permission to counties along with other subdivisions of local government—municipalities, authorities, and districts—to form themselves into regional planning commissions. The commissions thus set up are entitled to spend funds allotted them by a governmental unit or a private source. The regional commissions themselves are denied any authority to tax (H.B. 319).

MUNICIPALITIES

As noted in an earlier section of this summary, the Fifty-ninth Legislature passed several measures relating to the financial affairs of municipalities. One of these, H.B. 470, removed the statutory rate limits which incorporated cities and counties could levy to maintain parks and to service debt incurred for park purposes. Under H.B. 1079, Texas cities and towns are authorized to issue revenue bonds for the construction, acquisition, or improvement of swimming pools. H.B. 1168 permits cities and counties having populations larger than 550,000 to issue revenue bonds for the construction, acquisition, and

improvement of parks and fairgrounds for exhibits, concessions, and entertainment.

Cities along the Gulf Coast having populations of 60,000 or more have, for a number of years, had authority to acquire and operate public recreational facilities and to issue revenue bonds for the financing of such facilities. As additional security for such debt, the eligible city was authorized to grant to the purchaser at sale or foreclosure under the bond indenture a franchise to operate the properties purchased for a period of 35 years. This franchise period was extended to 75 years by S.B. 550.

Since 1947, Texas has had a state-wide retirement system which individual cities and towns could join to provide retirement benefits for their officers and employees. The law governing the Texas Municipal Retirement System was amended by H.B. 157 to provide that any participating department of a member city may decrease its rate of contribution to the system at the beginning of any calendar month, rather than at the end of the year following an election to decrease it. The act removes the fee provision of previous legislation that required each participant in the system to pay \$1.00 per year into the expense fund of the system. It adds a new section to the system law authorizing any city which has been a member of the system for at least three calendar years to increase its current service annuity reserve upon retirement of employees of the city by 150 per cent or 200 per cent under certain specified conditions.

H.B. 314 removes the 5,000 population eligibility limitation and makes applicable to all cities the statute giving cities authority to require that certain standards of sanitation be met by owners of land lying within the city. H.B. 949 amends the definition of industrial and municipal waste to include waste resulting from the disposal of sewage of natural persons who live outside the boundaries of a municipality.

Two of the three bills on zoning passed by the Fifty-ninth Legislature are applicable only to Houston. H.B. 105, one of them, authorizes Houston to bring suit to enjoin or abate violation of a restriction contained or incorporated by reference in a duly recorded plan, plat, replat, or other instrument affecting a subdivision inside its boundaries. Restriction here means a limitation on the use to which real property may be put, fixes the distance buildings or structures must be set back from property lines, street lines, or lot lines, as well as the struc-

tures which may be built on the property. H.B. 536 establishes procedures to be followed in Houston to obtain a commercial building permit and provides the authority for joint suits by the city and a property owner to enjoin further construction activity by any person who does not have a valid permit. S.B. 458 amends the statutes governing airport zoning by political subdivisions in the state. It amends these statutes so as to include in the definition of an "airport" the installations relating to flight and, particularly, installations, facilities, and bases of operations for tracking and/or data acquisition concerning flight. The act also includes in the definition of "airport hazard" any structure, tree, or use of land which obstructs such installations, facilities, and bases of operations.

H.B. 43 grants power to the Texas Aeronautics Commission to make grants or loans to any incorporated municipality in the state for the establishment, construction, reconstruction, enlargement, or repair of airports, airstrips, or air navigational facilities. Certain factors to be considered in making loans and grants are set forth, and specific conditions under which loans or grants may be made are established.

Under the terms of H.B. 159, all incorporated municipalities are authorized to transfer utility revenues to the general fund to the extent authorized or permitted by applicable revenue bond indenture.

H.B. 206 clarifies the powers of junior college districts and municipalities regarding the joint construction and the leasing of buildings by either governmental unit. It expressly provides that junior college districts may contract with municipalities or school districts for joint construction and that junior college districts and municipalities may enter into lease contracts with each other for any building or buildings.

H.B. 244 authorizes the governing bodies of home rule cities to set the date of election of city officers. It further permits any home rule city and any school district located partly or wholly within such a city to conduct joint elections, conditioned on observing certain procedures.

The statute pertaining to the filling of vacancies in elective city offices in general-law cities having the mayor-council form of government is amended by H.B. 292. This act provides that if no more than one vacancy on the city council exists, such vacancy may be filled either by a majority of the remaining city council, with the mayor voting only in case of a tie, or by a special election to fill the vacancy. If two or

more vacancies exist at the same time, they must be filled by special election. All vacancies in offices other than mayor and city councilman may be filled by appointments by the mayor or acting mayor, confirmed by the council.

H.B. 319 authorizes cities, counties, authorities, special districts, and other local political subdivisions to establish regional planning commissions to make studies and plans to guide the unified development of governmental services for an area encompassing several local units of government. Such commissions have no taxing authority but may accept any funds granted them by the participating governmental units, the state, the federal government, or any other source. Any plan developed by a regional planning commission may be adopted by any of the participating governmental units, but no member may be required to adopt any plan.

The Municipal Annexation Act is amended by H.B. 389 to require that city officials give notice by certified mail to railroad companies serving a municipality and having property on the municipality's tax roll when the right-of-way of such railroad is included in territory to be annexed by the municipality.

H.B. 539 provides that the governmental agency holding title and property rights to land on which a freeway is located may lease the portions of land situated beneath the elevated sections of the freeway for parking purposes.

H.B. 401 removes the 5,000 minimum population requirement from the statute allowing municipalities to codify their civil and criminal ordinances and adopt a civil and criminal code of ordinances. This authority is now granted to every municipality in the state.

Provisions for the creation, organization, and financing of joint city-county hospital boards is made by H.B. 960. Such hospital boards may be created by the commissioners court of any county and the governing body of any city located wholly or partially within the county. They are to have seven directors, four appointed by the commissioners court and three by the governing body of the city. Such boards may construct or otherwise acquire and operate hospital facilities, and the commissioners court and the city may lease or transfer title to their hospital facilities to such a board. The boards have no taxing authority but may issue revenue bonds upon the approval of both the commissioners court and the city's governing body.

The Commission on Law Enforcement Officer Standards and Education is created by S.B. 236. The commission is to be composed of nine members appointed by the Governor with the advice and consent of the Senate for three-year overlapping terms. The Commissioner of the Texas Education Agency, the Director of the Department of Public Safety, and the Attorney General serve as ex officio members. The commission is given the authority to make studies, reports, and recommendations on reasonable minimum standards for local and state law enforcement officers; prescribe basic minimum courses of training, training facilities, and qualifications and methods of training for law enforcement officers; and adopt a procedure for the certification of law officers and of law officer instructors. The commission is given the further authority to certify law enforcement training and education programs as having met its minimum standards, to certify instructors, to direct research in the field of law enforcement, and to recommend curricula for advanced courses and seminars in law enforcement training in higher education at the request of the Coordinating Board, Texas College and University System.

The City of Corpus Christi has within its boundaries a district of low-lying land known as the Cayo del Oso. In S.B. 157 the city was granted an extension of time (to 1971) in which to improve the lands, or else ownership will revert to the state.

COURTS, COURT PROCEDURE, AND CRIMINAL LAW

Courts. Eleven new courts were created by the Fifty-ninth Texas Legislature. S.B. 127 created the District Court of the 137th Judicial District composed of Lubbock County. This act also created Criminal Judicial District No. 5 and Criminal District Court No. 5 in Dallas County; the 171st Judicial District and District Court in El Paso County; Criminal District Court No. 6 of Harris County; and Criminal District Court No. 3 of Tarrant County. County Court No. 2 in Jefferson County (Beaumont) was created by S.B. 371, County Court No. 1 of Galveston County by S.B. 471, and the County Court at Law of Orange County by H.B. 790.

Three new courts of domestic relations were included among those established by the Legislature. The Brazoria County Court of Domestic Relations was one of these (H.B. 428); the County Court of Domestic Relations No. 2 in Tarrant County was another (H.B. 587);

and the third was the Court of Domestic Relations for Midland County (H.B. 1158).

The Governor in H.B. 218 is directed to appoint, from among those who have served as district judges and have retired, a judge to act as presiding judge of each Administrative Judicial District within the state. The term of office given to these presiding judges is four years. The intention here is to relieve some of the active district judges of administrative chores.

Court Procedure. By far the most significant legislation relating to court procedure was the Revised Code of Criminal Procedure (S.B. 107). This revision was a carryover of a bill which was passed by the Fifty-eighth Legislature in 1963 but which was vetoed by the Governor because of changes which appeared in the text of the bill between the time of its passage and the Governor's consideration of it. The revisions incorporated in S.B. 107 were designed to modernize the Texas Code of Criminal Procedure and to make its provisions compatible with recent U.S. Supreme Court decisions regarding the individual rights of accused persons. Because the changes made by the new code are so extensive, and since a summary of the major provisions of and changes in the code are available in a separate publication,⁶ they are not included here.

S.B. 453 provides that under certain conditions the defendant corporation in a shareholder's suit may require the plaintiff or plaintiffs to give security for the reasonable expenses of the corporation incurred in the suit. S.B. 520 amends the law on community property to provide that the amount of the bond required of a community administrator shall be set by the judge of the court having venue over the estate of the deceased spouse. H.B. 754 amends the law relating to parties to suits to provide that a wife may sue alone for the recovery of her separate property and may be sued alone for debts or demands against her and in all private or civil suits involving her individually. H.B. 68 provides that certain findings made in lower courts shall not be binding upon higher courts. H.B. 138 attempts to improve and extend the reciprocal

⁶ John F. Onion, Jr., "A New Code of Criminal Procedure for Texas," *Public Affairs Comment*, XI (November, 1965), 1-5. Single copies of this periodical are available free of charge from the Institute of Public Affairs, The University of Texas, Austin, Texas 78712.

enforcement of duties of support and to make the laws relating to reciprocal enforcement uniform.

Under the terms of H.B. 368, whenever a forcible entry and detainer suit or a forcible detainer suit is brought by a landlord against a tenant unlawfully occupying the premises of the landlord, the court may render judgment for the landlord and against the tenant for attorney's fees in an amount determined by the court to be reasonable, plus costs of the suit. The landlord who is a party to such a suit must follow certain procedures prescribed by the act.

Discretionary transfer of certain cases from a juvenile court to the court which would have jurisdiction if the offender were an adult is provided by H.B. 444. To be subject to such a transfer, the juvenile must be at least 16 years old and must be charged with an offense which would be a felony if committed by an adult. If the district judge of the court to which the case is transferred accepts jurisdiction, the case may be presented to a grand jury. If indicted, the juvenile is subject to the state's penal laws and may be tried as if he were an adult.

With the authority of H.B. 395, county courts and county courts at law or criminal courts, or any court with original criminal jurisdiction, may grant, subject to specified procedures, probated sentences in certain misdemeanor trials. H.B. 421 changes the rules governing the admissibility of evidence in suits involving the title to real estate or seeking a declaration of heirship to provide that documents of certain specified types may be introduced as evidence. The provisions of H.B. 637 direct that the head or superintendent, supervisor, or manager of a mental hospital in which a patient is confined is the agent for the patient to whom legal papers on the patient may be served.

H.B. 432 changes the dates of the quarterly terms of the Criminal Judicial Court No. 4 to make them concurrent with the terms of the other criminal judicial district courts in Dallas County. H.B. 838 establishes certain rules for the administration of the county courts at law in Bexar County (San Antonio), providing for rotational assignment of civil suits to the courts and for a presiding judge of the courts to assign any case pending in one of the county courts at law to another comparable county court, or one of the judges of the county courts at law to another court, or to try a particular case pending in another court.

H.B. 848 provides that the amount of the bond which must be executed by the plaintiff prior to the issuance of any writ of attachment

shall be fixed by the judge or justice of the peace issuing the attachment. The law amended by this act had specified that the bond could not be less than double the amount of the debt sworn to be owed the plaintiff.

The maximum per diem allowed jurors and persons responding to the process of the court in specified courts is increased by H.B. 849. Whereas the per diem range for jury service was \$4 to \$5, the maximum is now \$10. For those not accepted as jurors but who have responded to the process of the court, the maximum per diem is raised to \$5. Jurors serving in justice of the peace courts may now receive \$1 per case, rather than 50 cents, but not more than \$2 per day. Grand jurors may now receive up to \$10 per day for grand jury service. The previous maximum was only half as much.

Under terms of H.B. 345, either husband or wife may be granted an exemption from jury service when both are summoned to serve on the same jury panel. This law also exempts optometrists from jury service.

By the passage of H.B. 904 the Legislature exercised the authority granted it by a 1956 constitutional amendment to allow the courts to pay compensation to any person having paid a fine or served a sentence when the person is not guilty of the crime of which he has been or might be convicted. The act grants any person who has served part or all of a prison sentence (but not those who have only paid a fine) the right to sue the state and requires that in no case shall the compensation awarded by the court to such a person exceed \$50,000.

H.B. 1107 authorizes differential pay for any judge assigned to sit for the judge of a district or domestic relations court outside of his own judicial district. His differential pay cannot exceed an amount to be determined by a formula set forth in the act.

Criminal Law. S.B. 27 makes it an offense for any person charged with or convicted of a felony to escape or attempt to escape while in prison or in lawful custody. S.B. 28 makes the same action an offense when the person committing it is charged with or convicted of a misdemeanor. The punishment in the case of a person charged with or convicted of a felony is confinement not to exceed five years; in case of a person charged with or convicted of a misdemeanor, two years. If a firearm or other deadly weapon is used in an escape or attempt to escape by a person charged with or convicted of either a felony or a misdemeanor, prescribed punishment is not less than five nor more than fifteen years' confinement.

S.B. 147 amends the statutes relating to arson and wilful burning to

provide that where death results from such destruction, the offender, although he shall be held guilty of murder, shall not receive a penalty exceeding life imprisonment if the evidence fails to show that the death was occasioned by the malice aforethought of the offender. Under the terms of S.B. 335, the maximum punishment for simple assault or assault and battery is changed from a fine of \$25 to a fine of \$200.

S.B. 362 amends the so-called "hot check law." It allows the state to establish intent to defraud by direct evidence and mitigates the penalty for conviction of such intent. S.B. 370 makes legal pinball machines and similar devices which mechanically grant an immediate and unrecorded right to replay. S.B. 479 makes the section of the Penal Code prescribing the penalty for swindling conform to the definition of swindling set forth in another section of the code.

The law on shoplifting is amended by H.B. 126. The act removes from liability any merchant or his agent or employee who detains, for a reasonable time and in a reasonable manner, any person believed to be shoplifting. The act extends the scope of the law to shoplifting of articles valued at \$50 or more. The penalties for shoplifting of articles valued at less than \$50 are increased.

H.B. 151 makes it unlawful to purchase for, give to, or knowingly to make available to any person under 21 years of age an alcoholic beverage, unless the person so doing is the parent, legal guardian, adult husband, or adult wife of the person for whom the alcoholic beverage is intended. The act further makes it unlawful for any parent, legal guardian, husband, or wife of a person under 21 years of age to purchase for or knowingly to make available to or give to any person under 21 years of age an alcoholic beverage except for consumption in the actual, personal presence of the parent, legal guardian, adult husband, or adult wife. Persons violating either provision of this act are guilty of a misdemeanor and subject to a fine of not less than \$10 nor more than \$100.

H.B. 133 makes it unlawful to tattoo any person under the age of 21 years. Punishment is prescribed to be a fine not less than \$10 nor more than \$200, or imprisonment in the county jail for not more than six months, or both.

H.B. 366 repeals the law which made it an offense to exhibit women dancers who travel from place to place. H.B. 391 makes it an offense to use any vulgar or otherwise indecent language over the telephone or

to use the telephone with intent to harass, abuse, or intimidate any person, except for a lawful business purpose. Punishment upon conviction is prescribed to be a fine of not less than \$100 nor exceeding \$1,000 or from one to twelve months' confinement in the county jail, or both. Under the terms of H.B. 687, mobile home parks are added to the list of dwelling places for transients from which it is illegal to depart without paying for the privilege of staying there. H.B. 541 amends the Penal Code to provide that the law prohibiting the shooting of a firearm on a public road is enforceable by peace officers and by game wardens who are employees of the Parks and Wildlife Department. This is in response to an Attorney General's opinion that previously, under prior law, such persons were not authorized to enforce this law. H.B. 1060 makes it illegal for any person to sell or offer to sell any motor vehicle master key with the knowledge that it is designed to fit the ignition switch on more than one vehicle. The act sets the penalty for violation of this law at not less than \$25 nor more than \$200.

ELECTIONS

One of the most far-reaching acts to be passed by the Texas Legislature in recent decades was the statute providing for a system of voter registration in lieu of the outlawed poll tax. This act, S.B. 1 of the first called session, provides for annual rather than permanent registration of eligible voters. It requires voters to register, in person or by mail, with the county tax assessor and collector once each year between October 1 and the following January 31. Persons eligible to register and vote are citizens of the United States who have attained the age of 21 years and who have resided in the state for one year and in the district or county of voting for six months preceding an election. Persons over sixty years of age who do not reside in a city of 10,000 population or more may vote without being registered as voters except in counties of 500,000 or more population where the county commissioners court may require all voters to register.

Because of the timing of the court's decision which invalidated the poll tax, the Legislature had to make a special provision in S.B. 1 for voter registration for elections to be held during the voting year which ends on January 31, 1967. The plan provided for this purpose in S.B. 1 recognized as registered voters those persons who had already paid

the state and county poll tax; those who had received a poll tax receipt without payment which was valid for voting only for federal officials; and those who had previously received an exemption certificate because of underage, overage, or nonresidence. In addition, the act set up a special registration period extending from March 3 through March 17, 1966, during which eligible voters who had not paid their poll taxes or secured exemption certificates could register for the voting year which ends on January 31, 1967.

A number of lesser changes in the state's Election Code were also made by the regular session of the Fifty-ninth Legislature. H.B. 114 amends several sections of the code and adds five new ones to it. In amending the code the new act provides that no election precinct may be formed out of two or more Congressional districts or state senatorial districts or state representative districts, nor out of the parts of two or more such districts. It provides that the party's county executive committee is the proper body for setting the compensation of election judges and clerks in primary elections, and prescribes a \$12.50 per day limit on compensation of such persons in all elections except those held in counties having more than 500,000 population (Bexar, Dallas, Harris, and Tarrant). In the latter counties, the hourly rate for time worked in excess of ten hours may be \$1.25. The act goes on to amend the code to designate the specific election official (or a method of selecting the official) to conduct absentee balloting in elections held by certain governmental units.

Steps to be taken in voting absentee are spelled out for four classes of citizens stationed overseas, together with their wives and adult dependents. They can mail in an official "federal post card application" without having to submit a voter registration certificate. The prior requirement is now withdrawn that an application for absentee ballot be made no more than 60 days before the election (H.B. 114). The same act specifies that absentee voting by mail in run-off primary elections is to begin no later than ten days ahead of the election day.

A final amendment in the H.B. 114 series provides that for any general or primary election when balloting is for public offices, not all of which are to be voted on by each election district or precinct, different ballots for each district or precinct shall be prepared. Only the offices

subject to balloting by a specific district or precinct appear on the ballot used in such district or precinct.

A new section added to the Election Code by H.B. 114 provides that for all elections ordered by the Governor or any county authority and required to be held in the regular county election precincts, the election judges shall be appointed by the county commissioners court. In all elections called by county authorities and not required to be held in the regular county election precincts, the appropriate sections of the Election Code shall obtain in the selection of election judges. Another added section provides that in the four most populous counties (Bexar, Dallas, Harris, and Tarrant), the commissioners court may require all persons desiring to vote to make application for voter registration certificates regardless of their ages or whether they live in a city of less than 10,000 inhabitants.

A third addition to the code in H.B. 114 provides that any ill or disabled person may vote on election day between 8 a.m. and 2 p.m. while resting in an ambulance or other conveyance at the entrance to the place where absentee voting by mail has been conducted. This provision applies only if the person's removal to the place of regular balloting would injure his health and in precincts where voting machines are used in county-wide elections or in ones which are less than county-wide where absentee ballots are canvassed by a special canvassing board.

At the discretion of the officer conducting the absentee voting, another new section of the code provides that the office of such person may be open for absentee voting in person any time between 2 and 8 p.m. on the last Saturday or Sunday, or both, preceding any general, special, or primary election. Under the terms of an added section, any political party holding a primary or primaries must have signs showing the party name prominently displayed immediately above each entrance to each of the party's polling places. The final new section of the code in H.B. 114 provides that the county chairman must submit to the county clerk a separate list of the party's elected county chairmen and precinct chairmen; and the county clerk must record the list of the elected party officers, which list shall not be placed on the general election ballot.

H.B. 258 deletes from the Election Code certain provisions dealing with voting by military personnel. These provisions had been enacted

pursuant to that part of sec. 2, Art. VI of the Texas Constitution which was declared unconstitutional by the United States Supreme Court. H.B. 365 provides that the county executive committee in any county having a population of between 350,000 and 640,000 persons (Tarrant) shall require candidates for state senator or state representative to pay a \$300 filing fee to have their names on the ballot in a primary election.

H.B. 496 amends the Election Code and adds two new sections to it. The act provides that whenever there is a special election to fill a state Senate or House seat, a majority of the votes cast is necessary for election. Under the terms of the act, the Governor shall, within five days after the results of the first election are declared, if no one candidate received a majority, call a special election limited to the top two candidates in the first election. The act further covers such topics as methods for the canvassing of returns, the declaration of an elected candidate, notices of elections to be held, and the period for absentee voting in such a special election.

An amendment to the Election Code made by H.B. 150 changes the date on which election returns for members of the Texas Legislature are canvassed and certified. This date is now specified to be the Monday before the second Tuesday in January following the general election, whereas previously it was the seventeenth day following the election. This bill also changed the procedure to be followed in election contests involving candidates for the offices of State Senator and State Representative.

A new section is added to the code by H.B. 682. Under the terms of this act, applications for voter registration certificates which are mailed before the first day of February shall be deemed to have been received before that date if they are delivered to the registrar of voters (the county tax assessor-collector) on or before the fifth of February. H.B. 823 amends the code to provide that the commissioners court of any county having a population of more than 31,000 but not less than 60,000 persons and an assessed valuation in excess of \$78 million (Rusk and Wharton) shall furnish suitable space for conducting elections held at the expense of the county. This authority may be exercised only if no suitable public buildings are available for elections.

The trend toward increased use of the place system in local elections

was reflected in H.B. 170, which authorized additional school districts to elect their school boards by this method.

WATER

One of the subjects of chief concern to the Fifty-ninth Legislature was water. A number of water bills were passed, but no two were as important for the future of water development in the state as S.B. 145 and S.B. 146, which effected a major reorganization and revision of functions as between the Texas Water Development Board and the Texas Water Commission.

State Water Administration. Under the terms of S.B. 146, the Texas Water Development Board is given primary responsibility for water development in Texas. Its functions under the recent revision are: 1) to frame a comprehensive state water plan; 2) to act as the state co-operator in water development planning with the Federal Bureau of Reclamation and the Army Corps of Engineers; 3) to act as the state sponsor of federal projects where no suitable local agency or agencies can undertake that role; 4) to make loans to local governments for approved water projects, consistent with over-all planning objectives; 5) to negotiate with the federal government for inclusion of water storage space in federal projects; 6) to purchase storage space in local or federal reservoirs to insure optimum development of the dam sites; 7) to construct reservoirs and other facilities (if the constitutional amendment proposed in S.J.R. 19 is approved) such as canals, pipelines, pumping stations, and filtration plants required to move water from reservoirs to cities, to districts, or to other wholesale customers.

The Texas Water Commission was renamed the Texas Water Rights Commission (S.B. 145) and given responsibility for the protection of the public interest and of private rights in water development and use. The functions of the Water Rights Commission, following the revision, are: 1) to hold a public hearing on the state water plan prepared by the Water Development Board, to assure publicizing of the plan, and to determine that it includes adequate consideration of water rights; 2) to grant permits to individuals, local governments, and the Water Development Board for project construction, water storage or use, and interbasin transfers of water; 3) to conduct feasibility hearings on proposed federal projects, with the assistance of the Water

Development Board staff, and advise the Governor of the projects' probable effect; 4) to designate, after public hearings, local sponsors for either state or federal projects; 5) to cancel water permits which have not been put to beneficial use over a ten-year period; and 6) to create certain types of water districts.

S.B. 144 was passed in conjunction with the foregoing legislation. It authorizes the Texas Water Development Board to issue an additional \$100 million in bonds for improvement of water facilities in the state. H.B. 231 extends the scope of the Texas Water Development Board bond program to include the development of underground water resources.

River Authorities. Three laws were passed by the Fifty-ninth Legislature relating to river authorities. S.B. 360 authorizes the Trinity River Authority to invest any of its funds, including proceeds from the sale of bonds, in federal securities or obligations guaranteed by the United States government. The authority is further empowered to invest its funds in direct obligations of the Federal Intermediate Credit Bank, the Federal Home Loan Bank, or banks for cooperatives. Finally, the authority may trade bonds issued by it for land which the agency needs. Under S.B. 381, the Lower Colorado River Authority is authorized to enlarge its steam generating plant producing electric power to a maximum capacity of 565,000 kilowatts. The previous maximum was 250,000 kilowatts. H.B. 1058 reactivates the Upper Guadalupe River Authority.

Water Control and Improvement Districts. Four bills relating to certain water control and improvement districts were passed. H.B. 679 authorizes the Zavala-Dimmit Counties Water Improvement District No. 1 and any agency of the state or of the United States, a political subdivision, incorporated city, private corporation, or person to contract with each other to provide for the cooperative financing of the construction of reservoirs which will provide recreational facilities. Any contracts made may provide for the proportionate distribution among the contracting parties of income from recreational or business privileges upon any body of water created by the joint financing arrangement, so that any bonds issued by the district and the other contracting party for the construction of the reservoir may be liquidated. The act further provides the district with the power to acquire by purchase or condemnation any land within 300 feet around the perimeter of the reservoir. The construction of any reservoir in Dimmit County

(in South Texas) or the taking of any land lying in the county is specifically prohibited.

H.B. 807 amends the statute relating to the annexation powers of Tarrant County Water Control and Improvement District No. 1, allowing the district to annex territory located in adjacent Johnson County. Under the terms of H.B. 1078, any two or more water control and improvement districts which divert water from the Rio Grande, when they have been consolidated as prescribed by law, may adopt the precinct method of electing directors. H.B. 1112 authorizes the board of directors of Houston County Water Control and Improvement District No. 1 to issue bonds payable from net revenues of the district without a vote, if the bonds are made payable at least in part from revenues derived from one or more contracts with a city or cities and the decision on entering into the contract or contracts has been favorably voted on by the board of directors.

Water Power Control Districts. Under the terms of H.B. 680, water power control districts now are permitted to borrow money from any agency of the federal government without observing the previous 40-year limit on the term of a loan. H.B. 1172 authorizes water power control districts to enter into contracts with any person, firm, or corporation, or one or more of the three, for the sale or disposal of salt water. It further authorizes the issuance of revenue bonds, without an election, for the purpose of the construction and acquisition of pipelines, pumps, and all facilities necessary for the sale or disposal of salt water for pollution control.

Recreation. By passage of S.B. 165 the Texas Parks and Wildlife Department has been authorized to cooperate with the federal government in the administration of the federal "Land and Water Conservation Fund Act of 1965." The bill creates a special fund in the State Treasury for both state and federal monies used to carry out the purposes of the act. The Parks and Wildlife Department is authorized to prepare and keep up-to-date a state-wide, comprehensive plan for the development of the outdoor recreation resources of the state; to develop and operate outdoor areas and facilities; and to acquire land, waters, and interests in land and waters for such recreational areas and facilities. Further, the act adds to the powers of river authorities, other special water districts, and counties the power to acquire lands for public recreation use and to construct and operate such lands and facilities. These local authorities are also entitled to enter into contracts with

other governments and governmental units for planning, construction, and operation of these public facilities.

Water Safety. H.B. 69 makes a considerable number of changes in the Texas Water Safety Act, regulating the use of motorboats and other vessels on the public waters of the state. These changes are in the three basic areas of registration, safety equipment requirements, and enforcement and penalties. All registration of these vessels is now good for a period of two, rather than three, years. Fees imposed are as follows:

<i>Classification of Motorboat</i>	<i>Two-year Fee</i>
Class A—less than 16 feet in length	\$ 3.00
Class 1—16 but less than 26 feet	6.00
Class 2—26 but less than 40 feet	9.00
Class 3—40 feet and over	12.00

All vessels must now have serial numbers. Those which do not may be given one by the Highway Department.

White lights required on motorboats must be visible for two miles and required colored lights for one mile. Motorboats in classes 1, 2, and 3 must now have a whistle or similar device, and boats in classes 2 and 3 a bell. Certain fire prevention requirements drawn up by the U.S. Coast Guard must be met. Local governmental units (including cities, counties, and special water districts and authorities) may designate restricted areas and adopt regulations applying to the operation and equipping of vessels using the public waters located within their jurisdictions.

Reports must now be made to the Highway Department in case of any collision of vessels or other accident involving a vessel when the property damage done by the accident exceeds \$50. This act may be enforced by any local peace officer or game warden. Violation of its provisions regulating registration and safety equipment is punishable by a fine of up to \$200. Any person operating a vessel or skis or other water sport device while under the influence of alcohol, narcotics, barbiturates, or marijuana may upon conviction be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment up to six months, or both. Anyone operating any vessel or water skis or other water sport device recklessly or in wanton disregard of the rights and safety of others may receive similar punishment upon conviction.

All motorboats up to 14 feet in length and propelled by motors of 10 horsepower or less are exempt from the registration and safety provisions of the act, except the life preserver requirements.

Other Laws. H.B. 77 creates the Texas Water Well Drillers Board to examine, license, and regulate water well drillers in Texas. Under the definition given in the act, a water well driller means any person (including owner, operator, and drilling supervisor) who engages for compensation in the drilling, boring, coring, or construction of any water well in the state. The definition does not include anyone who engages in such activities on his own property for his own use, or a person who assists a licensed driller and is not primarily responsible for the drilling operations. Penalties are prescribed for water well drillers who engage in drilling without a license or in violation of the board's regulations. The act grants a license to all drillers in Texas without examination if they file an application and pay the license fee no later than August 31, 1966.

The law concerning court appointment of a water master is clarified by H.B. 81. The act specifies that, although no water master may be appointed for water lying both upstream and downstream from an existing reservoir, the jurisdiction of a water master shall not be reduced by the construction of a reservoir on that portion of the stream where and when he has jurisdiction. The act further provides that the trial court, whenever water rights are at issue, shall retain jurisdiction over the disputed waters during appeal and on until the final appeal and final judgment. H.B. 225 prohibits the withdrawal of water from any underground source and the transportation of the water outside the state unless such withdrawal and transportation is specifically authorized by an act of the Legislature. Exceptions to this provision are made in cases where no sale is involved or where prior contracts have been made by any city to supply water to users lying outside the state in instances where a city lies both in Texas and another state or states, or in the event the water is of substandard quality.⁷

Under the terms of H.B. 232, the name of all Soil Conservation Districts in Texas is changed to Soil and Water Conservation Districts. The name of the State Soil Conservation Board is similarly changed to

⁷ This law has subsequently been held unconstitutional by a federal court on the ground that it violates the commerce clause of the United States Constitution.

State Soil and Water Conservation Board. H.B. 271 contained a special appropriation to the Texas Water Commission (now the Texas Water Rights Commission) of \$290,000 for the fiscal year ending August 31, 1965, to finance the continued development of a long-range, comprehensive, state-wide water resources plan (now to be formulated by the Water Development Board). H.B. 540 deletes that portion of a 1949 law which sets the salary of the Texas commissioner on the Pecos River Commission and substitutes the requirement that the commissioner shall receive a salary determined by the Legislature. H.B. 785 makes the chairman of the Railroad Commission an ex officio member of the Water Pollution Control Board and, more importantly, gives the Railroad Commission exclusive responsibility for control of pollution in oil fields.

By S.B. 172 the Legislature granted to Waco all land, including islands, within the city limits of Waco and lying along and in the Brazos and Bosque Rivers. All mineral rights, except those to sand and gravel, were reserved to the state. S.B. 259 enlarges the application of an act passed by the Legislature in 1961, which had given specified police powers to certain navigation districts over the wharves, docks, and other terminal facilities not situated within the corporate limits of any city, town, or village. Under the terms of this new law, all navigation districts with property so situated are granted these police powers.

Under the terms of S.B. 328, certain cities are authorized to sell revenue bonds to buy the properties of a water control and improvement district and to integrate them with properties belonging to the city. Cities eligible under this act are those which have: 1) a population of more than 275,000; 2) a water and sewer system operated by a board of trustees or a public service board; 3) all or part of a water control and improvement district located within the city; and 4) the district's properties being separately operated under a contract between the city and the district by a board of trustees or public service board established by city charter or ordinance.

S.B. 578 grants to conservation and reclamation districts the authority to transport, treat, and dispose of sewage and industrial waste and other effluent if such districts have within their boundaries at least 80 per cent of the Texas land drained by any single "river system." The latter system is defined as "a river draining into the Gulf of Mexico and the tributaries of such a river."

HEALTH AND WELFARE

Public health and welfare programs are often operated by the state in conjunction with the public school system. Welfare agencies offer services that complement those of the public schools. For example, in seeking to help emotionally disturbed children, the Legislature in S.B. 306 expanded the pilot program for these children in special education by increasing from 6 to 20 the "exceptional children teacher units" assigned it.

A "gray area" has existed in determining which state agency had the primary responsibility for water pollution control and abatement. The difficulty came in trying to interpret legislative intent, particularly as regards the control of oil-field brine. The Fifty-ninth Legislature fixed firmly the responsibility for overseeing and taking action against this type of pollution. In H.B. 785 it decided that regulation of salt waters produced or encountered in drilling for oil belonged properly to the Railroad Commission.

S.B. 39 extends to all the handicapped up to the age of 21 the benefits (maintenance, care, and education) that the state has earlier granted to those with most types of handicaps. This law applies to children who are both deaf and blind or both blind and non-speaking. A parallel enactment of this sort is S.B. 35, which directs the State Board of Education to supply textbooks to blind pupils and those whose vision is badly impaired.

As an extra protection for children under 18 and family life, S.B. 225 absolves a physician from having to defend himself in a court contest or incurring other legal liability if he reports orally or in writing instances of physical abuse injurious to health which he encounters in his regular medical practice. His report is made to the proper law enforcement officers or agencies of local government.

S.B. 294 was a more nearly all-inclusive act than the statute it amended. The bill widened the definition of what constitutes a maternity home or maternity shelter, in order that no establishments of this kind would fail to be subject to some regulatory agency or to licensing by the state.

S.B. 163 designates the State Department of Public Welfare as the agency to administer at the state level Title V of the federal Economic Opportunity Act. The State Department of Public Welfare, in being

so designated, was "directed to enact and promulgate such rules and regulations as may be necessary" to achieve cooperation between state and federal agencies. It is to be responsible for devising methods for starting or expanding pilot or demonstration projects with the purpose of assisting needy persons in gaining employment and reaching self-sufficiency.

S.B. 557 gives counties permission to transfer hospital funds earmarked for operating expenses and use them for permanent improvements in the hospital or apply them to paying off hospital bonds. The Moody State School for Cerebral Palsied Children has been transferred to The University of Texas Medical School at Galveston (S.B. 224).

Official endorsement (S.B. 336) has been secured for conducting occupational therapy at state institutions under the aegis of the Department of Mental Health and Mental Retardation.

Several new county juvenile boards were set up: for Bosque County (S.B. 271), Comanche County (S.B. 272), Coryell County (S.B. 274), Hamilton County (S.B. 273), Harris County (S.B. 459), Van Zandt County (H.B. 693), and Ector County (H.B. 831).

Cities and towns are now empowered by H.B. 314 to take action to remove health hazards such as stagnant pools or other bodies of water that may harbor disease (weeds, brush, and other unsanitary conditions) on private premises. If a property owner refuses to eliminate unsanitary conditions after notice to do so by the city, the city may do so and charge the cost to the owner.

S.B. 125 gives permission to selected school boards of Bexar County to spend local funds on emotionally disturbed children.

Vocational schools, to be used in fighting unemployment, were a subject of several items of legislation. One of these, S.B. 487, allowed Texas A & M University to take over the property and physical plant of the James Connally Air Force Base in Waco and operate a technical institute on the site. Every county in the state was declared (H.B. 490) to be a vocational school district. Public school districts were given legal clearance (H.B. 130) to spend their county available fund apportionment in conducting area vocational-technical schools.

H.B. 1148 prescribed the care, treatment, and custody of mentally ill and retarded persons who are infected with tuberculosis. S.B. 130 also concerned the treatment and eradication of tuberculosis, and directs the State Board of Health to conduct tuberculosis examinations

for all pupils in grades one to seven. The campaign is strengthened by requiring school personnel to submit an annual doctor's certificate that they are free of the disease. The state's four tuberculosis hospitals, previously under the jurisdiction of the Board for Texas State Hospitals and Special Schools, were transferred to the Texas Department of Health by the same law.

Under terms of H.B. 893, the State Department of Health was also given responsibility for administering a compulsory program of testing newborn infants for phenylketonuria (PKU), a condition which can cause mental retardation if not promptly diagnosed and treated.

The Governor's Committee on Aging, formed by act of the Legislature (S.B. 12), is a continuing committee of nine members appointed by the Governor, the appointees subject to Senate approval. Members are not compensated for their service but are reimbursed for their actual travel expenses.

If the aggrieved person can make his case stick in court, it is now possible for a property owner, person, or organization to recover for damages done to their property by minors. Parents of minor children who as minors have committed such destruction may be required to make restitution for it (S.B. 42).

The duties that the Texas Council on Migrant Labor was discharging are now transferred (S.B. 179) to the Good Neighbor Commission. The name of the Texas Confederate Home for Men has been dropped, and the designation of the facility altered (H.B. 501) to read "Austin State Hospital Annex."

H.B. 51 amended the statutes governing compulsory school attendance by resetting the upper age limit of those required to go to school at 17. The previous age limit was 16. Deaf children, previously exempt, were made subject to the compulsory school attendance laws by H.B. 852. This was in recognition of the fact that the public schools are now able to teach these children through special education classes.

Under S.B. 405, the Legislature expanded the list of welfare recipients eligible for medical assistance payments to include those receiving aid to the blind, aid to the permanently and totally disabled, and aid to families with dependent children. This extension was made effective on July 1, 1966, and was made contingent upon the federal government's assumption of a major portion of the hospital care for old age assistance recipients by that time. The law also defined an

optometrist as a vendor of medical care under the act and, subject to certain conditions and limitations, extended medical services to recipients of public assistance to include out-patient services.

As a protection to the consumer against unhealthful foods, H.B. 194 sets up regulations regarding the sale of shellfish. The State Commissioner of Health may now declare areas polluted and forbid the taking of shellfish from such areas. The commissioner may also draw up a set of sanitation standards to be observed in the handling of shellfish.

HIGHWAYS AND MOTOR VEHICLES

A substantial amount of legislation dealing with motor vehicles and highways was passed by the Fifty-ninth Legislature. One of the more significant acts, S.B. 3, amends previous legislation regulating the length of motor vehicles, commercial motor vehicles, truck-tractors, trailers, and semi-trailers. The previous law limited the length of any one of these vehicles to 35 feet and permitted a combination of two of them not to exceed 50 feet in length. The new law permits any single vehicle to be up to 40 feet long. Semi-trailers may exceed this limit when operated in conjunction with tractors if the over-all length of the conveyance does not exceed 50 feet. Combinations of truck-tractors and semi-trailers are permitted to operate so long as they do not exceed 55 feet in length. All other combinations, which may include more than two vehicles, may not exceed a length of 65 feet.

S.B. 47 excludes from the motor vehicle sales and use tax the purchase of a motor vehicle by an auto dealer when the vehicle is loaned free of charge by the dealer to a public school for use in an approved standard driver training course.

Under the terms of S.B. 58, a certificate of title to a motor vehicle may indicate "right of survivorship" where a right of survivorship agreement exists between husband and wife. The act further provides that where such an agreement does exist, upon the death of either spouse a new certificate of title shall be furnished to the survivor.

S.B. 78 exempts from the definition of motor carriers "transporting for compensation or hire," which must obtain certificates from the Railroad Commission in order to operate on Texas highways, vehicles of persons who as owners lease such motor vehicles and are employed to operate the vehicle by the person to whom the equipment is fur-

nished. Such vehicles must transport only certain substances—used largely in road construction—which are processed by the person to whom the equipment is furnished. Such vehicles, further, must be transporting the substances only to or from certain places, including the site of a construction project carried out for the federal, state, or local political subdivision, national defense projects, or to and from the construction site of any road, highway, or expressway.

S.B. 498 clarifies previous legislation defining the authority of the Department of Public Safety in driver's license suspension cases. S.B. 572 provides for the recovery of the pro rata share of the motor vehicle license fee for vehicles damaged to such an extent that they can no longer be operated on the highways of the state, if the pro rata share of the fee exceeds \$15.

Under the terms of H.B. 11, a higher load limit of 15,000 pounds is fixed for the gross weight (vehicle plus load) allowed for farm trailers and semi-trailers used temporarily on the highways solely for transporting cotton from the place of production to the place of processing, marketing, or storage. Such trailers and semi-trailers are exempt from payment of regular registration fees and certain braking equipment requirements. A special license tag must be secured for these vehicles at a cost of \$5.

Under the terms of H.B. 153, the maximum speed limits for light trucks (defined as any truck with a manufacturer's rated carrying capacity not to exceed 2,000 pounds) are increased to the maximum speed limits prescribed for passenger cars. H.B. 154 amends previous legislation to provide that any person holding an operator's license may operate a light truck without obtaining a commercial operator's license.

H.B. 215 amends the Texas Motor Vehicle Safety-Responsibility Act so as to exempt from its provisions the officers, agents, and employees of the United States, the State of Texas, and all political subdivisions of the state while they are operating vehicles belonging to those governments in the course of their official duties. H.B. 316 permits registration of motor vehicles used for the conduct of consular affairs in Texas by any foreign government maintaining friendly relations with the United States without paying the registration fee. The act further provides for special license plates to be issued for such vehicles by the Department of Public Safety.

Under the terms of H.B. 318, motor vehicle signal lights may be used to indicate an intention to turn, change lanes, or start from a parked position but may not be used as a courtesy to drivers approaching from the rear as a "do pass" signal. H.B. 435 adds to the list of authorized emergency vehicles the private vehicles operated by volunteer firemen while answering a fire alarm.

Under existing law, motor vehicles which are registered out of the state may qualify for a temporary 30-day permit of registration in Texas if they transport farm commodities. H.B. 714 adds cotton to the list of farm commodities which make a vehicle eligible for this type of registration.

H.B. 655 provides for personalized automobile license plates which may be obtained for a fee of \$10, in addition to the regular motor vehicle registration. H.B. 871 provides a new procedure, in part, for the recovery of the vehicle license and registration by any person whose license or registration has been suspended or whose insurance policy or bond has been cancelled or who fails to furnish other proof upon a request of the Department of Public Safety. The act also changes the penalty for violation of this law to a fine of not more than \$200.

Under the terms of H.B. 1047, the Texas Highway Department is authorized to issue temporary 72-hour permits in lieu of registration for commercial motor vehicles, trailers, semi-trailers, and motor buses owned by residents of the United States, which are subject to registration in Texas and are not authorized to travel upon the public roads, either because of lack of registration or lack of reciprocity with the state in which they are registered. The fee for such permits is set at \$10.

H.B. 1089 amends previous legislation which limited the length of motor vehicles and combinations thereof used exclusively in transporting poles, pilings, or unrefined timber from point of origin to processing plant to 75 feet and permitted their traveling a distance no greater than 50 miles from the point of origin of such timber at a maximum speed of 35 miles per hour. This act increases the permitted length to 90 feet and the permitted travel distance to 125 miles. The act designates no maximum speed limit.

Under the terms of S.B. 152 the commissioners courts of counties bordering on the Gulf of Mexico or its tidewater limits are authorized to regulate motor vehicle traffic and littering on any beach within the boundaries of their respective counties. The act provides the penalties

for violation of any such regulation. H.B. 101 makes it unlawful for any private person to damage, remove, deface, or interfere or tamper with a barricade, flare pot, sign, flasher signal, or any other device warning of construction, repair, or detour on or adjacent to streets or highways of the state, after the device has been set out by a contractor, the state, a political subdivision of the state, or by a public utility.

H.B. 147 repeals a number of antiquated statutes dealing with road-work in Texas counties by the able-bodied men resident in such counties. H.B. 342 repeals the act of the Fifty-eighth Legislature which created the Bowie County Road District No. 1-A and effectively ends the life of that district.

H.B. 409 provides that the State Highway Commission may, at its discretion, accept voluntary contributions of available funds from any political subdivision of the state for expenditure by the commission in the development and construction of the public roads and State Highway System within such political subdivision. The act further provides that such voluntary contributions from any county or political subdivision of a county may be spent on the development and construction of the State Highway System within such county or political subdivision. The authority conferred by this act is in addition to that previously granted, which allowed the acceptance of such contributions only from any county or political subdivision of such county for expenditure on the development of the public roads of the county or political subdivision.

SPECIAL DISTRICTS

In Texas, as throughout the United States, special districts have been created with increasing frequency during recent years. Special districts are independent local units of government which are organized to carry out a single governmental function such as water supply, flood control, or hospital services. The Fifty-ninth Texas Legislature created no fewer than 70 of these special districts, an increase of 75 per cent over the number created by the preceding legislative session in 1963. Forty-six of the newly-authorized units are water districts of one kind or another, twenty-three are local hospital districts, and one is an independent school district for a state special school. A list of these districts, by type and location, may be found in Appendix B.

OTHER LAWS

An amendment to existing laws on the subject of abandoned property, H.B. 117, adds to the law by directing that lists of abandoned personal property be compiled, that the list be published or advertised, and that the holders of the property either make payments for it or surrender the abandoned property to the State Treasurer, once the status of the property has been determined.

S.B. 382 authorized the preservation of Gethsemane Lutheran Church in Austin as a historic structure. The church is located in the area acquired for expansion of the Capitol complex, and this law prevents its demolition.

Regulations adopted by previous statutes circumscribing the right of aliens to hold property in Texas have been repealed by S.B. 182. This bill declares that aliens shall have the same rights as United States citizens to own and enjoy property located in the state.

The owner or lessee of land who allows another person to enter his property to hunt, fish, or camp is, under H.B. 73, relieved in several particulars from liability for these persons on his land. The doctrine of "attractive nuisance" is in no way diminished by the passage of this bill.

S.B. 217 extends the services and benefits of the Employees Retirement System of Texas to any person who was an elected state official and who completed an entire term of office as a member of the Fifty-seventh Legislature, provided that the official elected to become a member of the state retirement system by September 1, 1965.

H.B. 968 provides that members of the Legislature may substitute years of membership in the Legislature for study at an approved law school in meeting the prerequisites for taking the State Bar examination. The number of years of service required to meet the prerequisites is worked out by a formula that takes into account years of service in the Legislature, formal education, and years of attendance at approved law schools.

Marriage laws were amended by S.B. 365. Men may marry after reaching the age of 21 and women may marry after the age of 18 without the consent of their parents. The county clerk now needs to have the consent in writing of one parent (or guardian) of an under-age person applying for a marriage license. The requirement is elimi-

nated that a license be obtained at least three days before the marriage. A standard form for marriage licenses is specified in the measure.

Adultery is now grounds for divorce on the same basis for both husbands and wives, as provided by H.B. 758. Under previous law, the husband could be granted a divorce if the wife were taken in adultery, but the wife could not seek a divorce for this reason unless her husband had abandoned her and lived in adultery with another woman.

Proposed Constitutional Amendments

The Fifty-ninth Texas Legislature passed a record number of proposed amendments—27 in all—to the Texas Constitution. These proposed constitutional amendments have been and will be voted on by the people of Texas on three different election days, in three separate elections, over a two-year period of time.

SEPTEMBER, 1965, ELECTION

On the first of these dates, September 7, 1965, the constitutional amendment embodied in S.J.R. 44 was submitted to a popular vote and was defeated. This proposed amendment would have enlarged the Texas Senate from its present size of 31 members to a new total of 39. The amendment proposed by S.J.R. 44 would also have written into the state constitution the principle that the apportionment of state senatorial districts—and thus the number of Senate seats—be according to population. The amendment, if it had passed, would have removed the present language in Art. III, sec. 25 of the Texas Constitution, which limits any county to no more than one State Senator, regardless of its population. This second part of the proposed change would have simply incorporated into the constitution what is already, in effect, the law as a result of the federal Supreme Court's ruling in *Reynolds v. Sims* (84 S. Ct. 1362, 1964).

NOVEMBER, 1965, ELECTION

On November 2, 1965, a bundle of ten more proposed constitutional amendments were voted on by the electorate. Five were adopted and five were defeated.

The amendment (to Art. III, sec. 49-b) proposed by H.J.R. 5 would have increased the amount of bonds that could be issued by the Veterans' Land Board for the purpose of purchasing additional land for resale to veterans from the present \$200 million maximum to a new \$400 million ceiling. The proposal was defeated.

H.J.R. 8, also defeated, would have allowed the Legislature to set the annual salary of the Speaker of the House of Representatives and of the Lieutenant Governor. It would have increased the maximum allowable for per diem expenses for the members of the Legislature, raising the amount from the present \$12 to \$20 a day. The Speaker of the House currently receives, under the constitution, exactly the same annual salary as every other member of the Legislature (\$4,800 per year), and the Lieutenant Governor is also paid the same salary (\$4,800) as the legislators are, except while serving as Acting Governor. The Speaker and the Lieutenant Governor both are furnished, as "fringe benefits," apartments in the Capitol for themselves and their families.

A third defeated amendment, S.J.R. 7, contained a grant of tax-exemption from all local ad valorem taxes to certain charitable hospitals. More specifically, it would have made tax-exempt the properties of any charitable trust or organization which operates a hospital furnishing free hospital or medical care to indigent persons within the state, and was specifically designed to apply to the Hermann Hospital and charitable estate in Houston, Harris County. This grant of tax-exemption had several specific conditions attached to it. One was that the hospital or trust must have spent at least \$1.5 million for free hospital or medical care (or both) in the 1964 calendar year; another was that the establishment be exempt from federal income taxes; and the third was that it be located in a county having a population of more than 1,240,000, according to the last federal census (Harris County).

The "longer terms of office" proposal applying to the Governor and other high-ranking officers of the state government (S.J.R. 14) was the fourth amendment to be voted down. Instead of the present two-year terms of the Governor, Lieutenant Governor, Attorney General,

Comptroller of Public Accounts, State Treasurer, Commissioner of the General Land Office, and Commissioner of Agriculture, these high-ranking administrative and executive officials would each have had a four-year term of office. All of these officials except the Commissioner of Agriculture are constitutional officers. The Secretary of State, appointed by the Governor rather than elected by popular vote, would also have served a four-year term under the proposal.

S.J.R. 47, the fifth proposal to be defeated in November, 1965, would have prescribed four-year terms of office for State Representatives, with one-half of the State Representatives being elected every two years. At present, Representatives are elected to a two-year term. This proposed change in the term of office for Representatives was a "companion piece" to S.J.R. 14, which would have doubled the length of the term of office for Governor, Lieutenant Governor, and other state administrative officials from two to four years. Members of the Senate already have four-year terms.

H.J.R. 11, approved by one of the wider margins at the November 2, 1965, election, allows the Legislature to authorize the new Coordinating Board, Texas College and University System, to issue general obligation bonds of the state, up to a total of no more than \$85 million, for the purpose of establishing the Texas Opportunity Plan Fund. This fund is being administered by the Coordinating Board, Texas College and University System. The new fund will be used to make loans to students enrolled in either public or private institutions of higher education in Texas, whether junior colleges or senior colleges. Anticipatory legislation (S.B. 310) was passed by the Fifty-ninth Legislature, and the loan program is already in operation.

Another amendment which met electoral approval, H.J.R. 57, concerns the state's justices and judges of certain specified courts. It provides for the automatic retirement of justices and judges of the state's appellate courts and its district and criminal district courts when those persons reach 75 years of age. Thus the mandatory retirement age for these officials would be set at age 75. H.J.R. 57 further provides for the automatic retirement of such justices and judges who are between the ages of 70 and 75 years, as the Legislature may prescribe. H.J.R. 57 also establishes a procedure for the removal in cases of misconduct and for involuntary retirement on account of disability of justices and judges. A State Judicial Qualifications Commission, consisting of four

judges, two members of the State Bar, and three private citizens, has been formed. The commission will, under procedures set by and in conjunction with the Supreme Court of Texas, administer the removal and involuntary retirement sections of the amendment.

A third proposed amendment which received overwhelming approval by the voters was H.J.R. 81. This amendment broadened the Legislature's powers in providing medical assistance for recipients of welfare payments. It will permit the Legislature to authorize medical assistance payments to certain welfare recipients not previously eligible for medical payments—the permanently and totally disabled, the blind, and families with dependent children. It also enlarged the Legislature's authority to determine qualifications of recipients, lowered the qualifying age for the needy blind from 21 to 18 years, and raised the age eligibility for needy dependent children from 16 to 21 years.

S.J.R. 24, the fourth amendment approved by the voters, will provide additional funds and borrowing authority to finance buildings and other permanent improvements at specified state colleges and universities. These funds will be obtained by increasing the present state property tax for such purposes from 5 cents to 10 cents on the \$100 assessed valuation. The ad valorem tax rate has become 47 cents on the \$100 valuation instead of 42 cents. The 20-year life of the former program of financing construction of state college and university buildings has been extended indefinitely, and new dates for the allocation of the college building funds have been adopted. This allocation formula for distributing these funds among the colleges and universities was changed from a backward-looking one based on past enrollment figures of each eligible institution to a forward-looking one based on the projected enrollment and space needs of the institution. In addition, five other colleges and universities were added to the present group of 12 institutions which were allocated building funds previously under the program. The new institutions to be included are Arlington State College, Midwestern University, the University of Houston, Pan American College, and Angelo State College.

S.J.R. 27, adopted by a substantial margin, establishes the Teacher Retirement System of Texas as a constitutional agency of the state; it had been a statutory agency. The amendment also broadens the investment authority and policy of the system while, at the same time, retaining and specifying certain investment restrictions. For example, the only stocks eligible for purchase by the Teacher Retirement Board of

Trustees are those of companies incorporated within the United States which have paid cash dividends regularly for the previous ten years. No more than 1 per cent of the book value of the Retirement System Fund may be invested in the stock of any one corporation, and no more than 5 per cent of the voting stock of any one corporation can be owned by the Teacher Retirement Fund. Furthermore, until more than \$500 million of the retirement fund is invested in government securities, not more than 33 1/3 per cent of this fund may be invested in common stocks at any given time.

NOVEMBER, 1966, ELECTION

Another set of amendments to the Texas Constitution is to be submitted to the voters for their approval or rejection on November 8, 1966. One of these, H.J.R. 1, would provide that the terms of office of Representatives and Senators begin on the same day that the law sets for the convening of the regular session of the Legislature.

The proposition which will be submitted to the voters in H. J. R. 13 is now largely a moot question. The amendment provides for the repeal of the poll tax as a requisite for voting, and federal court decisions declaring the tax unconstitutional have, in effect, already abolished it. An annual voter registration system is also provided by the amendment, and in balloting on it, voters will have an opportunity to express an opinion on the annual voter registration law passed by the first called session of the Fifty-ninth Legislature. One of the chief issues in that session was whether the state should have a permanent or an annual registration system.

H.J.R. 24 would allow any person who meets all the other requirements for voting in Texas, except residence in a county or district of the state, to vote 1) for electors for President and Vice-President and 2) for all officials and on all questions which are voted on state-wide, but only after a registration system has been devised for such persons. The same amendment proposition (H.J.R. 24) would also allow, once the Legislature has implemented it, any person who is otherwise qualified to vote, but who has not lived in Texas one year, to vote for electors for President and Vice-President. Such a person, to be eligible, must have resided in Texas at least 30 days preceding a presidential election and must have been a qualified elector in the state from which he came. Finally, the amendment would allow the Legislature to adopt

a state voter registration system by which former residents of Texas who have been removed from the state less than one year would be permitted to vote in Texas elections, subject to their compliance with additional requirements: 1) they must be persons who have not met the residence requirement for voting in the state to which they have moved; 2) they must be persons who meet, at the time of the presidential elections, all the requirements in Texas, except residence, for voting for electors for President and Vice-President, to vote absentee for such electors.

The amendment proposed in H.J.R. 37 would allow the Legislature to extend financial assistance to the wives and minor children of law enforcement officers, custodial personnel of the Texas Department of Corrections, and full-paid firemen who are killed in the line of duty.

H.J.R. 38 would repeal Art. VI, sec. 2 of the Texas Constitution which prohibits military personnel from voting except in the county in which they resided when entering the armed forces. This section of the constitution, which prevents military personnel who have met the residence requirements and all the other requirements for voting from participating in elections simply because they did not live in Texas when they began their military service, has already been nullified by the decision of the U.S. Supreme Court in *Carrington v. Rash*.

Hospital districts are one of several kinds of "special districts" that have been set up in the state to perform local governmental functions. H.J.R. 48 would permit the Legislature to adopt a procedure for the dissolution of hospital districts, so long as the hospital districts that are being dissolved meet certain conditions.

H.J.R. 65 also concerns local governmental units. It would provide that neither the taxes nor any bonds (except those unissued) of any public school district or public junior college district which were voted before any changes were made in the boundaries of these districts would be abrogated by any subsequent changes in such boundaries.

H.J.R. 69 would allow the Legislature to enact general legislation applicable to any county in the state with a population of 1.2 million or more persons (only Harris County at present). The amendment would enable any political subdivisions of the county to consolidate any of their functions, or to contract with each other for the performance of any function or functions. Under the terms of the amendment, any consolidation would be subject to the approval of a majority of the voters in the political subdivisions involved. The Legislature could

also provide for the contracting for performance of any functions between any political subdivision of the county and the county itself.

A comparable or somewhat parallel change in the constitution, S.J.R. 4, would authorize the Legislature to enact into law a state-wide system of retirement, disability, and death benefits for all officers and employees of counties or other political subdivisions of the state, or of political subdivisions of counties. It would further confer on the Legislature the authority to merge the present retirement systems of individual counties into the state-wide system which might be established for county and other political subdivision officers and employees under this amendment. In effect, the Legislature would be empowered to establish a uniform, state-wide system of retirement and death benefits for employees of the counties and political subdivisions of the state or counties.

The proposed amendment set forth in S.J.R. 1 would grant the Legislature the power to provide for the creation and operation of airport authorities located in two or more counties. It would limit the tax rate of these authorities to 75¢ per \$100 assessed value and would allow these multi-county airport authorities to have their own tax assessors and collectors. State-regulated common carriers that are already subject to the state intangibles tax (for example, railroads and motor buses) would be exempt from taxation by these airport authorities.

Another amendment to the constitution up for adoption or rejection in November, 1966, is the one contained in H.J.R. 79. It would require that all land owned by natural persons and designated as agricultural land be assessed only on the basis of its agricultural use. Agricultural land as here used is defined as land used for "the raising of livestock or growing of crops, fruit, flowers, and other products of the soil under natural conditions as a business venture for profit." Farming or ranching must be the primary occupation and source of income for the owner, and the land in question must have been put to agricultural use for three years preceding its assessment as agricultural land. The object of this amendment is to reduce the assessed valuation of high-value farm land which is located within or adjacent to urban areas.

S.J.R. 19 would permit the Texas Water Development Board to issue an additional \$200 million in bonds for water development purposes when approved by a two-thirds vote of the Legislature. This

proposal would bring the total amount of state debt authorized for water development purposes to \$400 million.

If approved at the polls, S.J.R. 26 would increase the size of the Court of Criminal Appeals from three to five judges. It would also designate the two members of the Commission of Appeals, in aid of the Court of Criminal Appeals, as the two additional judges of the court. The new judges would serve for terms of two and four years, respectively, at the end of which time they would have to stand for election.

The amendment contained in S.J.R. 33 would allow certain state agencies to accept funds from private, nonsectarian, non-profit agencies for the purpose of using these funds as matching money to match federal grants. Federal funds are available for establishing and equipping facilities for the vocational rehabilitation of blind, crippled, and other physically or mentally handicapped persons. The private funds given to the state agencies, when matched with federal funds, would then be given by the state to these private rehabilitation agencies for use in the vocational rehabilitation of blind, crippled, and other physically or mentally disadvantaged persons.

The Fifty-ninth Texas Legislature made Arlington State College a branch of The University of Texas System, rather than a part of the Texas A & M University System, as it had been previously. To effect a portion of this transfer, S.J.R. 39 would remove Arlington State from participation in the Permanent University Fund, which is the state's endowment for The University of Texas and the Texas A & M University Systems.

Finally, the amendment proposed in H.J.R. 21 would permit the Legislature to set six-year terms of office for members of governing boards of all special water districts created after the adoption of the amendment. It would also validate all six-year terms which may have been permitted by the Legislature prior to the approval of this measure.

Bills and Resolutions Vetoed

Aside from item vetoes of appropriations, Governor John Connally vetoed 40 measures passed by the Fifty-ninth Legislature.

The Governor vetoed H.B. 753 because the Legislature had passed

two conflicting laws, H.B. 753 and S.B. 306, both of which would have amended the state's Minimum Foundation Program for the public schools. As it was, H.B. 753 was chosen to be the one vetoed, on the legal grounds that the second one passed presumably reflects more fully the Legislature's will.

H.B. 814 was vetoed by the Governor because he judged its provisions to be unconstitutional. The bill would have extended the benefits of the state Teacher Retirement System to teachers in parochial (and non-profit) elementary schools and high schools, as well as teachers in private colleges and universities over the state. The Governor, in his proclamation, cited a portion of Article III, section 46, of the Texas Constitution. This section speaks of providing retirement benefits "for persons employed in the public schools, colleges and universities supported wholly or partly by the State" but makes no mention of including teachers or staff of private schools and colleges in the retirement system.

The Governor disapproved of and vetoed other measures touching on public education. As to H.B. 736 which the Governor did not allow to become law, his objections were several: First, he questioned seriously if anyone could make a dependable estimate of the probable cost of the contemplated step, which was to have the state assume more of the financial responsibility or burden of furnishing bus transportation to public school pupils. Second, because H.B. 736 was an allocation bill, it ran straight into the obstacle that allocation bills, if passed after the general appropriation act, must make a specific appropriation. H.B. 736 had none. Third, the issues raised by this measure are among the very ones that the Governor wants the new Committee on Public School Education to examine.

The same thought induced the Governor to step in and veto H.B. 707, which would have applied to the allocation of public school principals. The change concerned the number of classroom teacher units needed for one full-time principal. The veto came because of the creation of the Governor's Committee on Public School Education, which can properly inquire into such formulas and report its findings and recommendations to the Governor and Legislature. Thus the Governor took a "wait and see" attitude toward this bill, deciding that it would be better to proceed cautiously in adopting new legislation on this point.

A more sweeping revision in the public school system was contemplated in S.B. 50, the bill that would have assured public school teachers over the state that they would have a state-wide sick-leave policy and practice. Again, the Governor responded by mentioning the recently formed Committee on Public School Education and singling it out as the proper group to review and analyze this proposition. Similar justification was made for the veto of H.B. 647 which would have permitted common school districts to appoint boards of equalization and tax assessors and collectors.

In a brief message, the Governor announced that he was vetoing H.B. 991, a bill that gave authority for establishing vocational and technical schools. His reason for so acting was that H.B. 991 duplicated much of the content of H.B. 490, already enacted by the Legislature.

Almost equally short and to the point was the veto announcement for S.B. 278. The bill had stirred up a vigorous controversy, and some strong opposition, among the citizens of San Antonio. The bill would have trimmed down the exercise of the right of eminent domain by the Bexar County Civil Court at Law. Several San Antonio groups had raised objections to the projected legislation.

H.B. 80 likewise fell before the Governor's veto power. The bill was an attempt to set up a system for licensing and regulation of "commercial applicators" of pesticides and herbicides. The Governor regarded the provisions of H.B. 80 as too stringent or too harsh a regulation for the occupation to be put under. He was seeking to keep from working an undue hardship on persons in that business or occupation.

It took only a short message for the Governor to announce his veto of H.B. 398 and to set down his reason for disapproving it. The flaw that led to the veto was simply that the bill's caption did not reveal the actual substance of the bill proper.

The Governor announced that he was vetoing H.B. 850 merely because another piece of legislation, S.B. 428, was identical in content to the vetoed measure, and the Senate bill had already become law. S.B. 28, the one that survived, confers upon The University of Texas Board of Regents the right to acquire full and unqualified title to the George W. Brackenridge tract in Austin. The act was designed to clear up any confusion as to who was the rightful owner of the land.

The Governor cited two reasons for vetoing H.B. 179: in the first

place, he found evidence of faulty drafting of the bill; secondly, he looked upon the bill as too lenient on certain citizens. The vetoed bill concerned itself with the issuing of certificates showing the amount of taxes, interest, penalties, and costs due on property, and the effect of these certificates when introduced as evidence in court.

The Governor disposed of H.B. 699 at the request of the bill's authors, who regarded the language in it as ambiguous. The bill had to do with the investment of trust funds and special deposits by city officials in cities of 900,000 population or more.

The creation of a new hospital district in Harris County, the Nassau Bay Hospital District, was a move sanctioned by the Legislature in H.B. 1135. The Governor, after giving the bill close study, held it his duty to veto the measure. For one thing, only about 200 families reside in the proposed district. For another, an onerous tax burden would fall upon newcomers in the area, since this group of recent arrivals to the vicinity would not have the chance to vote for or against the hospital district, in view of their not having yet had time to secure the right as resident, tax-paying citizens to vote on the issue.

The passage of H.B. 118 authorized the creation of a junior college in Nolan County. Since this would have been contrary to the standards for establishing a junior college as laid down by various statutory and administrative regulations, the Governor used his veto power on the bill. For similar reasons, a proposed junior college for Yoakum County (H.B. 303) was also vetoed.

S.B. 59 brought forth one of the Governor's significant vetoes of the session. This law would have permitted banks and similar lending institutions to make loans at the effective interest rates of from 13.6 per cent to 16.2 per cent, whereas the legal limit on such loans presently stands at 10 per cent. Governor Connally objected that no evidence was produced to show that interest rates now legalized on loans were not high enough to assure the lending firm a fair and reasonable rate of return on its capital. Moreover, this piece of legislation would have changed the policy on charges for insurance that accompany many a loan; under the proposed legislation, a borrower might be required to take out one or several insurance policies as a condition for getting the loan.

H.B. 1042 would have added to the area covered by the Upper Colorado River Authority seven other West Texas counties. One of

the flaws found in this bill was that it would open the way for a conflict over what agency had the real power to control water pollution of the Colorado River. Beyond that, H.B. 1042 was found objectionable in that it would have granted the authority the right to employ its own peace officers to enforce its regulations.

As in other instances, Governor Connally vetoed H.B. 419 because its provisions duplicated those of S.B. 199, which the Governor had signed into law on June 1, 1965.

In rejecting H.B. 618, the Governor felt that the bill was unconstitutional since it did not "define the offense for which a penalty is provided in Section 3 of Article 1010a of the Texas Code of Criminal Procedure." The bill would have given the county auditor in certain counties authority to prescribe a system of accounting for collection of fines and fees.

In an equally terse way, Governor Connally vetoed S.B. 384, which dealt with the appointment of county child welfare boards. This veto was justified on the grounds that the bill seemingly was applicable to only one county in the state, whereas, on closer look, it would have applied to all counties—something which the backers of the bill had not intended.

In a way, the Governor had his veto message for S.B. 544 all written out before the bill was passed by the Legislature. He had observed in his January 27, 1965, message to the Legislature that "any further multiplication of state-supported units of higher education" would dilute dangerously the state's resources. The bill in question would have converted Texarkana Junior College into a Northeast Texas State College, a fully state-supported institution. One difficulty in taking this step, he contended, lay in Texarkana's nearness to Louisiana and Arkansas. Therefore, it was understandably complex to forecast the probable effect this legislation would have on the college's registration of out-of-state students. Hence the changing of a junior college into a four-year college would have an unpredictable consequence financially; its impact would depend on the number of out-of-state students who chose to attend the projected Northeast Texas State College.

Another explanation of the veto of S.B. 544 was a more salient one. The Governor had pushed hard and successfully for a coordinating board for Texas public higher education; now he wanted the new

coordinating board to review requests such as this for making junior colleges into fully state-supported senior colleges and thus enable the Legislature and the Governor to make sensible, informed, and balanced decisions.

After quoting the "separation of powers" clause in the constitution (Art. II, sec. 1), Governor Connally made clear the justification of his veto of S.B. 233. The bill would have transferred to the comptroller the privilege of passing on the validity of claims against the state. In brief, the state comptroller would have to validate state warrant requests as to "legality," to approve them for availability of appropriation, and to adjust and settle these warrant requests, using his discretion. Or, as the veto message had it, "S.B. 233 empowers the State Comptroller to determine the legality of claims against the State." The Governor considered that the bill would break down the barriers between separate departments of the government, since the state comptroller would have been pre-empting a part of the province of the state judicial system.

At present, the Texas statutes give the state a prior lien on corporate property, a lien that extends to all franchise taxes and penalties charged against the property. The proposed legislation in H.B. 532 would have eliminated the state's prior lien privileges. The state, in the Governor's view, would have been hampered seriously in its efforts to collect delinquent franchise taxes if he had signed the bill into law.

The dictum that "any further disorderly multiplication of state-supported units of higher education will dangerously dilute our resources" accompanied the veto of S.B. 385. That bill called for the creation of what the Governor labeled a two-headed institution, to be named Permian State College and to be located at Odessa. One branch of the college would have offered a four-year program leading to a bachelor's degree; the other branch would have had a curriculum of vocational and technical courses. The need and justification for this kind of school, the Governor noted, was a matter for the newly-created Coordinating Board, Texas College and University System to weigh; then the coordinating board might recommend to the Legislature and Governor a wise, far-seeing policy to follow.

H.B. 765 was an attempt to arrive at a satisfactory definition of a public charity or charity corporation, so as to determine which corporations should be entitled to exemption from the state corporation fran-

chise tax. The Governor did not agree with the Legislature that the bill contained a suitable definition of the term "public charitable corporations" and therefore rejected the bill. In particular, the definition that the bill set forth was so wide that it furnished few guidelines to the state comptroller for use in ascertaining franchise tax liabilities.

A technicality in drawing up the bill was responsible for the veto of H.B. 422. The Governor acted to invoke his veto power because the bill would have created confusion as to the meaning of a particular statute (Art. 6675a-3 of Vernon's Texas Civil Statutes). The Governor also decided that the bill would perpetuate a mistake by authorizing certain organizations "to register their motor vehicles by the payment of a minimal flat fee," rather than being obligated to pay the ordinary charges made on all other vehicles.

Unconstitutionality was the basis for veto of H.B. 468. The bill prescribed penalties that might be assessed against the county chairman or any others of the county executive committee who refunded any of the filing fees to candidates for State Representative or State Senator. The Governor took the view that the bill had to be struck down on the basis that it failed to mention in its caption the penalties to be imposed against county officials who did refund these filing fees.

Under H.B. 940, a county commissioner or county judge could have certified the names of persons to the tax collector and had him commission these persons to sell poll taxes. The bill was vetoed because it was drawn up to apply to one county, rather than to the whole state.

A vigorous protest from county clerks and from spokesmen for the State Bar of Texas lent support to the Governor in his judgment of H.B. 45. The vetoed bill was an effort to revise county fees upward. Its critics objected to the unevenness of the new schedule of rates. In addition, the bill could have been interpreted to mean that all local governmental units should pay their fees to the county clerk.

A reshuffling of the membership of the State Building Commission was the intent of S.B. 391, which was vetoed by the Governor. The bill would have taken the chairman of the Board of Control off the State Building Commission and put in his place the Lieutenant Governor. Governor Connally drew up a formidable list of justifications for not letting this bill become law. He conceded that the relevant portion of the constitution (Art. III, sec. 51b) did sanction the Legislature's altering of the membership of the building commission by statute. The officer—and not the particular person who held the office

—selected to succeed into membership on the building commission was the vulnerable point, for the Lieutenant Governor is undeniably an elective officer who functions in an important legislative capacity rather than an administrative officer. The Governor's verdict was that, whether in the bounds of the constitution or not, it was bad practice for the Legislature to cross the lines separating executive and legislative branches and, as a result, to violate the principles of three-way separation of powers in state government.

Its own sponsors deserted S.B. 167, which was an amendment to the Liquor Control Act respecting the purchase, consumption, possession, or transportation of alcoholic beverages by minors. The bill's own supporters came to realize that there were serious defects in the bill as passed. They so informed the Governor, who vetoed the bill.

Conflict over which section of the statutes was to be revised and which kept untouched explains the Governor's rejection of H.B. 591. The intention of the Legislature in adopting such an amendment was judged to be ambiguous. The proposed section to be added to Art. 8308 of the Revised Civil Statutes, which concerns workmen's compensation, in reality repealed the whole section instead of amending it. The law would have authorized employers to extend workmen's compensation benefits to employees by purchasing insurance.

Whether the state by statute should prohibit cities from requiring their employees, "as a condition of employment by the city," to live within that city was the question the Legislature presented to the Governor in S.B. 55. He concluded that the state's legislating in this field would not, under the circumstances, be justified and went to some lengths to set out his arguments against the propriety of the proposal. He built his case against the bill by referring to the efficacy of home-rule government for cities of the state, saying that the system of municipal home-rule had worked well in Texas and ought not to be contravened or "eroded." He questioned the soundness of transferring to the state government a function previously exercised by officers of local government. To do so would have run directly counter to the state policy of leaving to local authorities those powers which are actually and essentially local.

Governor Connally, in his January 27, 1965, message to the Legislature, had spoken out against the creation of any additional governing boards for Texas state colleges. He followed through on that recommendation by vetoing S.B. 160, which would have removed two state-

supported institutions, East Texas State and West Texas State, from the jurisdiction of the former Board of Regents for State Teachers Colleges (now the Board of Regents, State Senior Colleges) and given both institutions boards of regents of their own. The Governor, in disallowing this step, acted as he did in the interest of "some hope for unity, some promise of order, some strides toward quality," as he expressed it.

On April 15, toward the middle of the 1965 regular legislative session, H.B. 14 was passed and transmitted to the Governor. The bill's net result would have been to establish a fourth state-supported medical school, to be situated in Lubbock County, where it would have been attached as a branch or department of Texas Technological College. With the Governor's veto, the question of a medical school for Texas Tech was passed along to the newly-formed Coordinating Board, Texas College and University System, for its appraisal and decision.

H.B. 329 concerned the use of cars and trucks on land owned by public junior college districts. It would have conferred on the boards of directors of junior colleges the power to issue rules and regulations governing campus traffic and would have assessed the penalties for breaking of the rules. The Governor was doubtful as to the constitutionality of the measure, because it would have delegated police powers to the college board of directors, and such boards were not considered to be the proper governmental authority to exercise such powers.

An almost identical veto message was transmitted to the Legislature concerning H.B. 748 as had been drafted to accompany the return of H.B. 329. These two bills contained very much the same provisions; therefore, the two bills were both rejected for virtually the same reasons.

One piece of attempted legislation, H.B. 992, concerned itself with a creditor's remedy against a person who has a dormant deposit or inactive account. The intent of the bill was to open up a way for an individual to collect a debt by filing a claim against that deposit or account. The Governor, in defending his decision to veto, declared that it would be a radical departure from proper legal processes and would contain insufficient safeguards against false claims.

S.B. 457, an effort to cancel all penalties for late payment of state taxes to the state comptroller, was objected to and vetoed by the Governor because in his judgment it created a "loophole" that might be used by persons who owed state taxes. The bill, he commented, would

have had the practical net effect of abolishing due dates, or "deadlines," in the collection of franchise taxes imposed by the state.

Interim Studies

During recent years, the number and complexity of state problems requiring legislative consideration and decision have given rise to numerous research studies which are conducted during the interim between regular legislative sessions. The customary practice is for each regular session of the Legislature to authorize such studies, either by a formal bill or some form of resolution, and to direct that the reports based on such studies be made to the next regular biennial session or be completed and submitted by some other specified date. The Fifty-ninth Texas Legislature requested that 42 studies be made during the period from 1965 to 1967. These research projects, their responsible study groups, and statutory authorizations are indicated in Appendix C.

Bills and Resolutions Which Failed

The two groups seeking action from the Fifty-ninth Legislature who were probably the most sorely disappointed were the bankers and the public school teachers. Each lost its battle for a major piece of legislation. As explained in the section on vetoes, the teachers fell short of their goal of a state-wide sick-leave policy for the whole public school system. The banking group was denied final approval on its bill to authorize higher interest rates on loans. Both bills were kept from being made laws by the Governor's veto and thus, apart from vetoes, were not outright failures, so far as their legislative careers were concerned. Many other bills failed to run the gamut of the legislative processes and thus were not eligible for transmittal to the Governor for approval or disapproval. Some of these were defeated in formal votes in the House or Senate; others were killed by formal com-

mittee rejection; and still others died from inaction in committee or on the floor of the Legislature.

One significant bill which failed to pass was H.B. 4, which would have authorized cities to levy a tax of 1 per cent or one-half of 1 per cent on retail sales. The rejected measure would not have imposed the city sales tax, but would merely have left cities free to make their choice, through the avenue of a local election, on whether to adopt the "piggy-back" municipal sales tax as a supplement to the state retail sales tax. The Texas Municipal League acted as mobilizer for support of the bill, as it did for various other proposals that concerned urban matters. Cities likewise joined hands in backing H.B. 256, a bill that would have changed the administration of the property tax to hold back on the issuing of automobile license plates to an owner until the applicant for a license could show by a tax receipt that he had already paid his ad valorem taxes. This tax-collection technique was voted down by the Legislature, as was H.B. 61, which would have empowered cities to withhold from paychecks the dues of bona fide employees' organizations.

A pair of unsuccessful bills, H.B. 103 and S.B. 291, would have allowed open-court hearings and public records when a juvenile was charged with a felony offense. In another attack on the situation, H.B. 802 would have lowered the age at which a young person would have lost his legal status as a juvenile to 16 years for girls, 15 for boys.

A governmental unit to be called the Dallas South Water and Sewer Authority was proposed by H.B. 491. Likewise, backers of a special district given the name of the Caddo Lake Navigation District and to have embraced the counties of Harrison, Marion, Morris, and Upshur did not secure the Legislature's go-ahead for its formation (H.B. 100). The same was true of the proposal to create a county-wide hospital district in Sherman County (H.B. 91, H.B. 798).

One bill of the four in the Governor's package plan for water development and management in the state was rejected. This was H.B. 887, the water rights adjudication bill. The recommendation of the Governor on this score, if favorably acted upon, would have set up an administrative procedure for determining water rights that were established or granted in years past.

The Legislature did not enact either S.B. 357, on the subject of contraband narcotics, or S.B. 359, which was an effort to build safeguards around dangerous drugs. Yet H.B. 228, which was voted

through, extended the list of those substances which the state recognizes as dangerous drugs.

Introduced late in the session, H.B. 1149 fell short of getting majority votes in the Legislature. It tried in the interest of safety to impose the requirement that builders use safe glazing material in sliding glass doors.

H.B. 174 did not make its way through the Senate. Much of the same idea, the payment of money to the surviving spouse and minor children of law enforcement officers killed in line of duty, was incorporated in a proposed constitutional amendment (H.J.R. 37) and approved for submission to the voters.

In his budget Governor Connally had asked for the addition of 200 highway patrolmen to the state's force—100 for the first year of the biennium, another 100 for the second year. The Legislature said no to this request; instead, it gave authority for the employment of 75 more patrolmen in the 1966–67 fiscal year.

An amendment was rejected (H.B. 357) which would have exempted from taxation any non-profit or charitable corporation in the state. A similar move, to exempt public charity organizations from the state corporation franchise tax (H.B. 765), was blocked by a Governor's veto. A bill (H.B. 35, S.B. 96) that would have instructed charitable trusts and foundations to file annual reports with the Attorney General was not adopted.

Several efforts to alter or whittle away the homestead exemption on the property tax were turned back. For example, H.J.R. 3 would have been the instrument for prohibiting counties from assessing any ad valorem tax on the first \$3,000 value of a house being occupied by its owner. H.J.R. 19 and H.J.R. 32 called for exempting of persons over 65 from all ad valorem taxes on the first \$3,000 valuation of a homestead.

Another casualty of the 1965 session was H.B. 63, a bill to have lowered interest rates on small loans.

An effort to redefine by statute (S.B. 507) the respective rights of husbands and wives in questions of property went down in defeat. Further "women's rights" measures that fell short of gaining official acceptance by both House and Senate included, among others, S.B. 9, S.B. 113, H.B. 201, H.B. 209, and H.B. 449.

An attempt to set up a mechanism for censoring obscene motion

pictures, contained in H.B. 208, was killed. H.B. 815, also unsuccessful, tried to protect the public, and especially young people, against harmful chemicals by prohibiting the buying or possession of, or trafficking in, model glue or cement by persons 17 years old or younger, unless the parent gave his consent to it in writing.

A measure (H.B. 577) that fell short of passage would have led to abolishing the death penalty for a capital offense.

The proposal embodied in H.B. 973 was that the minimum salary for all regular, full-time state employees be set at \$200 per month. The effort died in committee.

Both H.B. 197 and its counterpart in the Senate, S.B. 105, failed to pass. They proposed the creation of county traffic courts with original and appellate jurisdiction.

The Code of Criminal Procedure was to have been amended by H.B. 131 to abolish certain fees now collected by attorneys and justices of the peace in traffic violation cases.

The creation of a state-wide Water Resources Research Institute was the aim of S.B. 126, which failed to muster the necessary vote for passage. The idea had a precedent in the Cotton Research Committee, an inter-agency body.

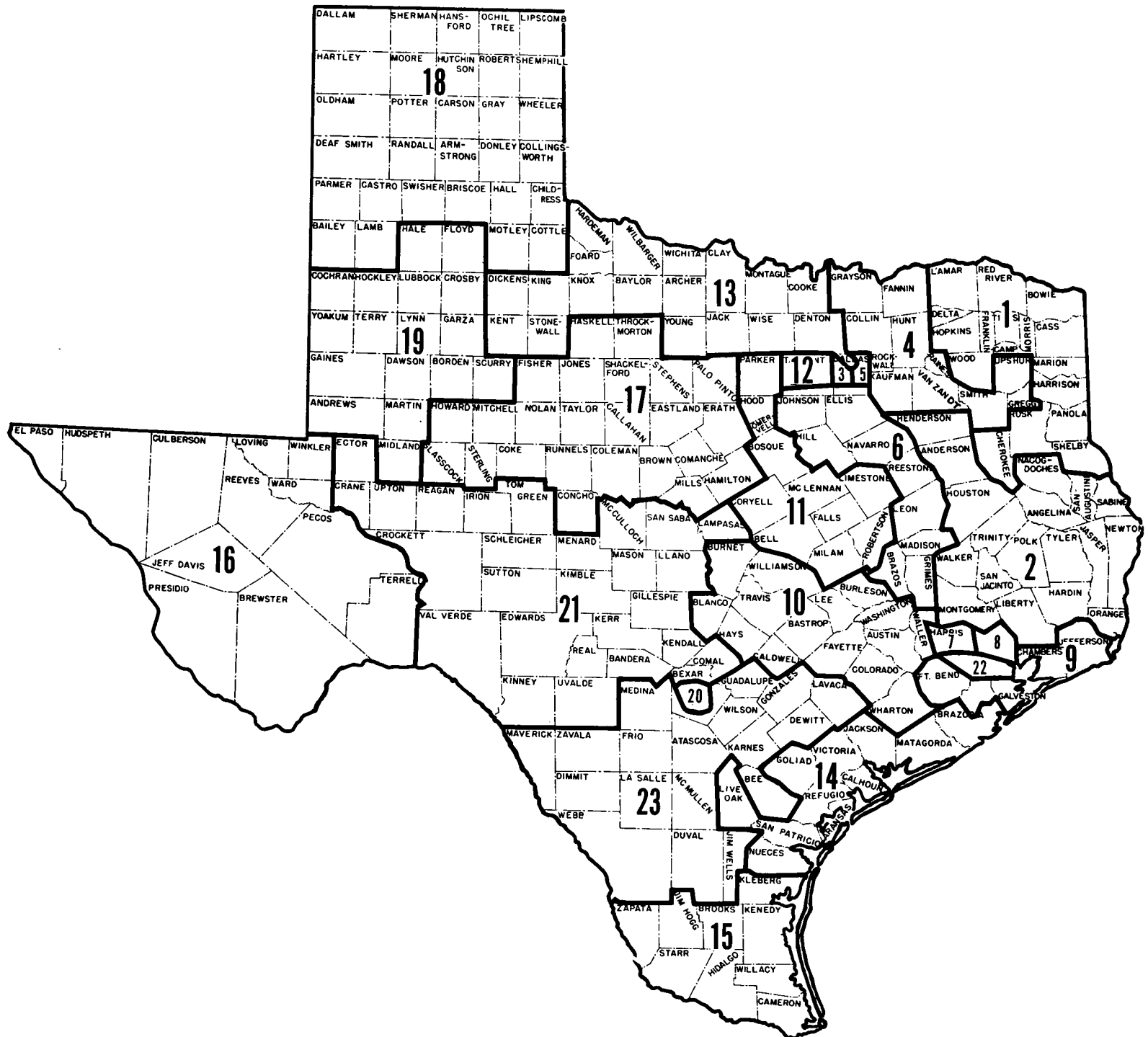
Under H.B. 92 persons seeking a divorce would have been faced with a 180-day waiting period before a divorce could be granted, so long as there were children under 18 years old in the family. The state would no longer have recognized the validity of common-law marriages with the passage of H.B. 211. El Paso County was denied a court of domestic relations (H.B. 972), Eastland County a county juvenile board (H.B. 986), and Collin County a juvenile board (H.B. 1102).

The bills that have been briefly examined here are only a sampling of the legislation that did not clear all the hurdles to become enactments of the Legislature and additions to the body of Texas statutes. There is nothing to bar a measure—perhaps in amended form—from subsequent consideration in future sessions of the Legislature. If past experience is a reliable guide, it is quite likely that many will reappear on the legislative scene and that some of them will eventually become law.

APPENDIX A

Maps of Congressional, State Representative,
and State Senatorial Districts in Texas

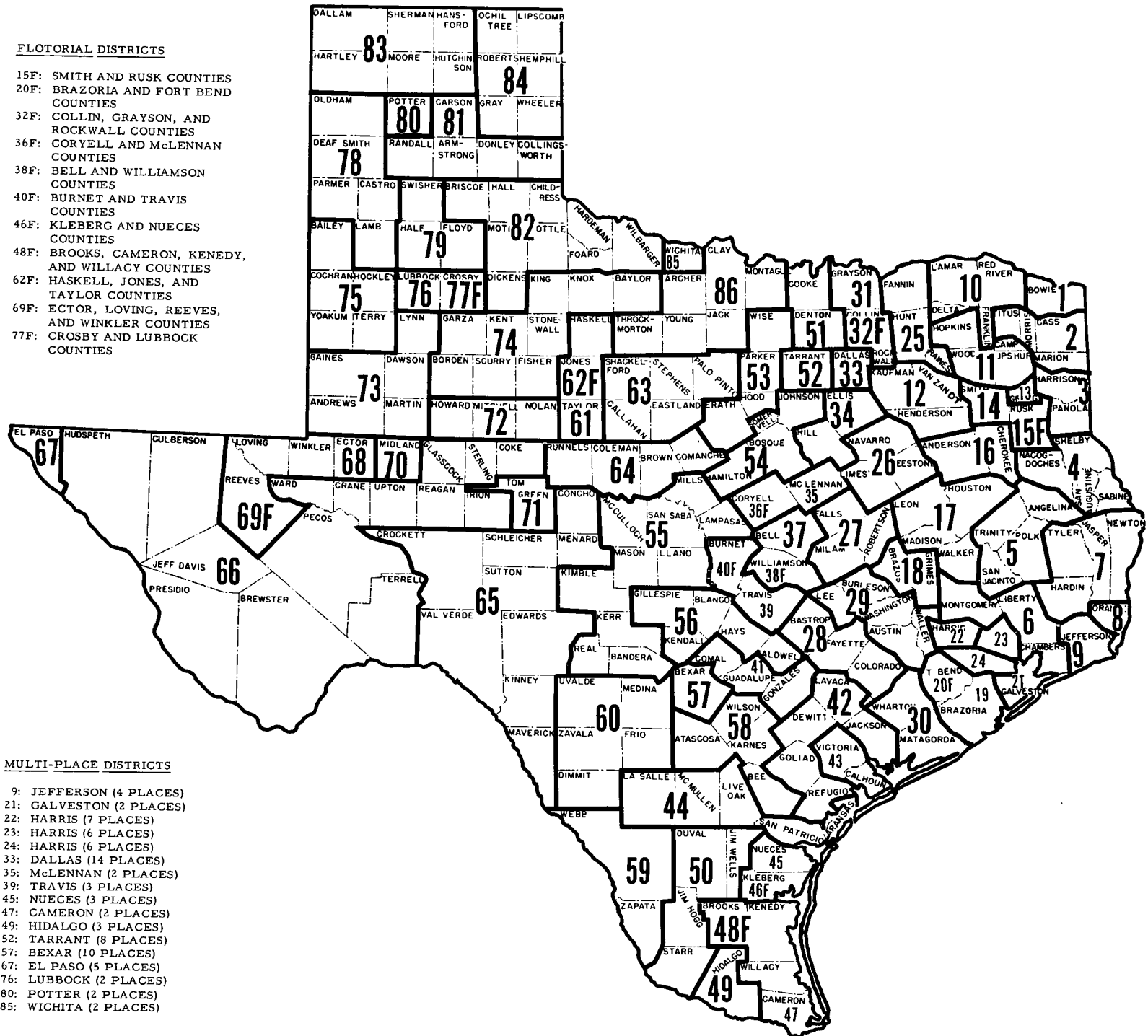
TEXAS CONGRESSIONAL DISTRICTS 1966



TEXAS REPRESENTATIVE DISTRICTS 1966

FLORIAL DISTRICTS

- 15F: SMITH AND RUSK COUNTIES
 20F: BRAZORIA AND FORT BEND COUNTIES
 32F: COLLIN, GRAYSON, AND ROCKWALL COUNTIES
 36F: CORYELL AND McLENNAN COUNTIES
 38F: BELL AND WILLIAMSON COUNTIES
 40F: BURNET AND TRAVIS COUNTIES
 46F: KLEBERG AND NUECES COUNTIES
 48F: BROOKS, CAMERON, KENEDY, AND WILLACY COUNTIES
 62F: HASKELL, JONES, AND TAYLOR COUNTIES
 69F: ECTOR, LOVING, REEVES, AND WINKLER COUNTIES
 77F: CROSBY AND LUBBOCK COUNTIES



MULTI-PLACE DISTRICTS

- 9: JEFFERSON (4 PLACES)
 21: GALVESTON (2 PLACES)
 22: HARRIS (7 PLACES)
 23: HARRIS (6 PLACES)
 24: HARRIS (6 PLACES)
 33: DALLAS (14 PLACES)
 35: McLENNAN (2 PLACES)
 39: TRAVIS (3 PLACES)
 45: NUECES (3 PLACES)
 47: CAMERON (2 PLACES)
 49: HIDALGO (3 PLACES)
 52: TARRANT (8 PLACES)
 57: BEXAR (10 PLACES)
 67: EL PASO (5 PLACES)
 76: LUBBOCK (2 PLACES)
 80: POTTER (2 PLACES)
 85: WICHITA (2 PLACES)

[illegible]

APPENDIX B

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Type and Name of District	Location (County or Counties)	Bill Number
<i>Hospital (23)</i>		
Childress County Hospital District	Childress	H.B. 1118
Cisco Hospital District	Eastland (p) *	S.B. 253
Cuero Hospital District	DeWitt (p)	H.B. 713
Gray County Hospital District	Gray	S.B. 587
Hunt County Hospital District	Hunt	S.B. 554
Matagorda County Hospital District	Matagorda	S.B. 334
Mathis Hospital District	San Patricio (p)	H.B. 156
Maverick County Hospital District	Maverick	H.B. 1073
Motley County Hospital District	Motley	H.B. 227
Muenster Hospital District	Cooke	H.B. 397
Nixon Hospital District of Gonzales and Wilson Counties	Gonzales & Wilson (p)	H.B. 1111
Palo Pinto County Hospital District	Palo Pinto	S.B. 506
Parker County Hospital District	Parker	S.B. 283
Poteet Community Hospital District	Atascosa (p)	H.B. 890
Presidio County Hospital District	Presidio	H.B. 1106
Sinton-Odem Hospital District	San Patricio (p)	H.B. 160

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Type and Name of District	Location (County or Counties)	Bill Number
Stamford Hospital District	Jones & Haskell (p)	H.B. 1075
Swisher Memorial Hospital District	Swisher	H.B. 113
Taft Hospital District	San Patricio (p)	H.B. 161
Terry Memorial Hospital District	Terry	H.B. 1146
Uvalde County Hospital District	Uvalde	H.B. 62
Wilbarger County Hospital District	Wilbarger	S.B. 65
Yoakum Hospital District	DeWitt, Gonzales, & Lavaca (p)	H.B. 1045
<i>School</i> (1)		
Lubbock State School Independent School District	Lubbock	H.B. 703
<i>Water</i> (46)		
Acres Homes Improvement District	Harris	H.B. 976
Bender Road Improvement District	Harris	H.B. 979
Blue Water Municipal Utility District	Brazoria	H.B. 1138
Bordersville Improvement District	Harris	H.B. 981
Braeburn West Utility District	Harris	H.B. 1126
Briarwick Improvement District	Harris	H.B. 978

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE FIFTY-NINTH TEXAS LEGISLATURE

	Type and Name of District	Location (County or Counties)	Bill
			Number
[97]	Cardinal Meadows Improvement District	Jefferson	S.B. 500
	Clear Creek Basin Authority	Harris	H.B. 1125
	Clear Woods Improvement District	Harris	H.B. 840
	Comanche Hills Municipal Utility District	Bell	S.B. 553
	Commodore Cove Improvement District	Brazoria	H.B. 786
	Crosby Municipal Utility District	Harris	S.B. 537
	Cypress Valley Navigation District	Harrison & Marion (p)	H.B. 1099
	Deep East Texas Interbasin Navigation District	Angelina, Jasper, Nacog- doches, Sabine, San Augustine, & Shelby	H.B. 1136
	Evergreen Underground Water Conservation District	Wilson & Atascosa	H.B. 116
	Flamingo Isles Municipal Utility District	Galveston	H.B. 918
	Folletts Island Water Supply District	Brazoria	H.B. 1140
	Franklin County Water District	Franklin	H.B. 1161
	Galveston County Water Authority	Galveston	H.B. 1127
	Gulf Freeway Municipal Utility District	Galveston	H.B. 1081
	Harbor Improvement District	Galveston	S.B. 564
	Inverness Forest Improvement District	Harris	H.B. 841

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Type and Name of District	Location (County or Counties)	Bill Number
Lakeside Beach Improvement District	Burnet	H.B. 804
Lazy River Improvement District	Montgomery	H.B. 528
Lipan Creek Flood Control District	Tom Green & Concho (p)	H.B. 1031
Mackenzie Municipal Water Authority	Swisher, Briscoe, & Floyd (p)	H.B. 622
Mason County River Authority	Mason	H.B. 1038
Middle Sabine River Navigation District	Gregg, Rusk, Harrison, & Panola (p)	H.B. 454
Newton County Navigation District	Newton	H.B. 1114
North Nome Improvement District	Jefferson	S.B. 501
Pineview Water Supply District	Jasper	H.B. 1098
Pirate's Cove Municipal Utility District	Galveston	S.B. 565
Plateau Underground Water Conservation and Supply District**	Schleicher	H.B. 1059
Rayburn Improvement District	Angelina	H.B. 569
San Leon Municipal Utility District	Galveston	H.B. 1082
Sequoia Improvement District	Harris	H.B. 842
South China Improvement District	Jefferson	S.B. 430

APPENDIX B (Continued)

SPECIAL DISTRICTS AUTHORIZED OR CREATED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Type and Name of District	Location (County or Counties)	Bill Number
South Concho River Flood Control District	Tom Green & Schleicher (p)	H.B. 936
Three Rivers Water District	Live Oak	H.B. 1041
Timberlake Improvement District	Harris	H.B. 1084
Treasure Island Municipal Utility District	Brazoria	H.B. 1139
Treeline Improvement District	Harris	H.B. 1066
Turkey Creek Improvement District	Harris	H.B. 1051
Village of San Luis Municipal Utility District	Galveston	S.B. 566
West Road Improvement District	Harris	H.B. 980
Wilcrest Improvement District	Harris	H.B. 977

* The symbol (p) denotes a hospital district covering only part of a county or counties.

** Shall be created only at such time as the Texas Water Rights Commission designates an underground water reservoir or reservoir sub-division for the area to be served by the district.

APPENDIX C

INTERIM STUDIES AUTHORIZED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
<i>Taxation and Finance</i>		
(1) State and local government tax situation (continued).	Committee on State and Local Tax Policy.	H.C.R. 142
(2) Ways of reducing cost and eliminating waste in state government operations.	House interim committee.	H.S.R. 394
(3) The priority of liens in favor of the state to secure payment of taxes.	House interim committee.	H.S.R. 535
<i>Regulation of Business and Professions</i>		
(4) Texas Liquor Control Act.	House interim committee.	H.S.R. 350
(5) Laws relating to agriculture and the need for additional legislation in that field.	House members—private citizens committee.	H.S.R. 496
(6) Operation of livestock auction companies to determine whether health standards and state and federal statutes are being met.	House interim committee.	H.S.R. 602
(7) Current status of the nursing profession and the future need for nurses.	Senate interim committee.	S.R. 162
<i>Education</i>		
(8) Feasibility and need of establishing a state-supported institution of higher education in Bexar County.	Coordinating Board, Texas College and University System.	S.C.R. 95

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
(9) All aspects of public elementary and secondary education.	Governor's Committee on Public Education.	S.B. 4
(10) Problems confronting public education in Texas.	Special interim committee.	H.S.R. 467
(11) Range and kinds of personal security payments and benefits which should be authorized for faculties of state colleges and universities.	Legislator—private citizen committee.	S.C.R. 26
<i>Counties</i>		
(12) County government in Texas.	Texas Legislative Council.	H.C.R. 73
<i>Courts, Court Procedure, and Criminal Law</i>		
(13) Case of <i>Gideon v. Wainwright</i> with reference to adequate counsel.	Texas Legislative Council.	H.C.R. 40
(14) Rights of representatives of news media in reporting information relating to an accused person and proceedings in the criminal and civil courts of the state.	Legislator—news media—State Bar committee.	H.C.R. 168
(15) To advise and assist the Houston Legal Foundation in its study of counsel for indigents.	House interim committee.	H.S.R. 459
(16) Criminal law and punishment in Texas.	House interim committee.	H.S.R. 550

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE FIFTY-NINTH TEXAS LEGISLATURE

	Subject of Study	Study Group	Bill or Resolution
	<i>Elections</i>		
	(17) All voting machines and equipment.	House members—state officials committee.	H.S.R. 286
	(18) Election laws of the state.	Legislators—state officials—county officials committee.	S.C.R. 58
	<i>Water</i>		
	(19) Problem of salt pollution of underground and surface inland water.	House members—private citizens committee.	H.S.R. 556
	(20) Water pollution in Texas (continued).	Legislators—private citizens committee.	S.C.R. 9
	(21) Water situation in Texas: state and federal role.	House members—private citizens committee.	H.S.R. 497
	<i>Health and Welfare</i>		
	(22) Workmen's compensation laws of Texas as they compare with such laws in other states.	Texas Legislative Council.	H.S.R. 559
	(23) Education and assistance programs for deaf persons.	Texas Legislative Council.	S.C.R. 46
	(24) Need for additional facilities for care of delinquent, dependent, and neglected children.	Texas Legislative Council.	S.C.R. 79
	(25) Problems of deaf and hard-of-hearing.	House interim committee.	H.S.R. 197

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
(26) Language disorders in children.	House members—private citizens committee.	H.S.R. 323
(27) Juvenile crime.	House interim committee.	H.S.R. 465
(28) Housing and physical care of the criminally insane.	House members—private citizens committee.	H.S.R. 599
<i>Highways and Motor Vehicles</i>		
(29) Mass transportation (continued).	Texas Legislative Council.	H.C.R. 20
(30) Assisting municipalities in construction of arterial streets.	Texas Legislative Council.	S.C.R. 6
(31) Feasibility of providing additional tunnels and bridges across the Houston Ship Channel.	House interim committee.	H.S.R. 585
<i>Legislature</i>		
(32) Rules of the House concerning the time bills and resolutions are printed and their distribution.	House interim committee.	H.S.R. 473
(33) Rules of the House to insure adequate consideration of all important legislation and to improve efficiency of legislative process.	House interim committee.	H.S.R. 607
<i>General Investigating</i>		
(34) Any matters concerning state government or its subdivisions deemed important.	House General Investigating Committee.	H.S.R. 75

APPENDIX C (Continued)

INTERIM STUDIES AUTHORIZED BY THE FIFTY-NINTH TEXAS LEGISLATURE

Subject of Study	Study Group	Bill or Resolution
(35) Law violations and the administration of all state laws and matters affecting state revenue.	Senate General Investigating Committee.	S.R. 163
<i>Recreation</i>		
(36) Feasibility and desirability of creating a "Pleasure Island State Park" near Port Arthur.	Joint interim committee.	H.C.R. 69
(37) Recreational water safety in Texas.	House interim committee.	H.S.R. 537
(38) Need for and cost of renovating the facilities of the State Fair of Texas.	House interim committee.	H.S.R. 560
<i>Other Studies</i>		
(39) Economic effects of imported meat on Texas cattle, swine, and sheep industry.	Private citizens committee.	S.R. 376
(40) Advertising tourism in foreign countries.	Council of State Governments.	S.C.R. 101
(41) Laws discriminating against women.	Texas Legislative Council.	H.S.R. 182
(42) Feasibility of establishing a group insurance plan for state officials and employees.	House interim committee.	H.S.R. 554